



Weston Solutions, Inc.  
1400 Weston Way  
P.O. Box 2653  
West Chester, Pennsylvania 19380  
610-701-3000 • Fax 610-701-3186  
[www.westonsolutions.com](http://www.westonsolutions.com)

19 January 2010

Mr. Kenneth Bardo  
Project Manager  
United States Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

Re: World Kitchen, Inc. Massillon, Ohio, Facility  
U.S. EPA I.D. No. OHD 045-205-424  
Change of Project Manager

Dear Mr. Bardo,

In compliance with Paragraph 13 of the RCRA 3008 (H) Administrative Consent Order RCRA-05 2002-0010 dated August 22, 2002, I am notifying you that the Wyeth Project Manager for this project has been changed from Mr. Matthew Basso to Mr. John Egan. His contact information is as follows:

John Egan, PE, CHMM  
Pfizer Global Engineering  
5 Giralda Farms, 2A  
Madison, NJ 07940  
Tel: 973-660-6733  
email: [eganj2@wyeth.com](mailto:eganj2@wyeth.com)

Additionally, Pfizer acquired Wyeth on October 15, 2009 and for purposes of this remediation project, the name of the company has been changed from Wyeth to Wyeth, LLC. Matt Basso has been assigned other responsibilities within Wyeth but will maintain a transitional role for the foreseeable future.

Please contact me at 610-701-3776, [Tom.Cornuet@WestonSolutions.com](mailto:Tom.Cornuet@WestonSolutions.com), if you have any questions on this matter.

Sincerely,

WESTON SOLUTIONS, INC.

Thomas Cornuet, P.G.  
Project Manager

cc: J. Egan, Pfizer  
M. Basso, Pfizer  
P. McDonald, WESTON  
C. Selinsky, American Roll and Hold

*an employee-owned company*

i:\folders.a-f\ekco-wki-2006-2009\02 legal\change of project manager.doc



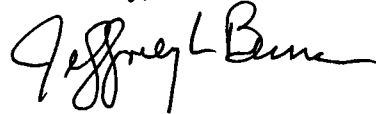
Mr. Ken Bardo  
U.S. EPA Region V  
77 W. Jackson Blvd.  
Chicago, IL 60604  
December 2, 2004

Subject: WKI, Wyeth and B & S Enterprises Agreement

Dear Mr. Bardo,

Attached please find the agreement between WKI, Wyeth and B&S Enterprises concerning the obligations designated by U.S. EPA Docket No. RCRA-05-2002-0010 Administrative Order of Consent.

Sincerely,



Jeffrey L. Burman  
Project Manager  
World Kitchen, Inc.  
Massillon Facility

Enclosures

Baker's Secret

Chicago Cutlery

Corelle

CorningWare

EKCO

Magnalite

Olfa

Pyrex

Regent Sheffield

Revere

Visions

Wiltshire

## AGREEMENT

THIS AGREEMENT is made this 29th day of November, 2004, by and among Wyeth ("Wyeth," formerly known as American Home Products Corporation), B & S Enterprises, LLC, a California limited liability company ("B&S"), World Kitchen, Inc. ("WKI"), and EKCO Manufacturing of Ohio, Inc. ("EKCO").

WHEREAS, B&S is the purchaser of certain real property and improvements commonly known as 359 State Avenue NW, Massillon, Ohio (the "Massillon Facility") from EKCO pursuant to a Property Purchase Agreement, dated October 5, 2004 (the "Massillon Purchase Agreement"); and

WHEREAS, EKCO's affiliate, WKI is a party to (1) an Administrative Order on Consent under U.S. EPA Docket No. RCRA-05-2002-0010 (the "AOC") with the United States Environmental Protection Agency ("USEPA") and American Home Products Corporation ("AHP"), now known as Wyeth and (2) an Agreement to Perform Corrective Action Responsibilities, dated August 5, 2002 (the "Corrective Action Agreement"), with Wyeth, both of which establish certain rights, restrictions and obligations regarding the Massillon Facility; and

WHEREAS, WKI, pursuant to the Corrective Action Agreement and the AOC, has agreed to perform those obligations designated in the AOC as the sole responsibility of WKI, including paragraphs 15d, 15e, 21, 22, 23, 24, 25, 26 and 30, and pursuant to paragraph 11 of the AOC, is required to assure (1) that all institutional controls required now or in the future for the Massillon Facility will be implemented and maintained and (2) that any transfer of ownership shall be conditioned upon the agreement of the transferee to comply with the Property Use Restrictions, as herein defined, to which WKI is subject under the AOC; and

WHEREAS, Wyeth, pursuant to the Corrective Action Agreement and the AOC, has agreed to perform those obligations designated in the AOC as the sole responsibility of Wyeth, including paragraphs 15a, 15b, 15c, 15f, 16, 18, 19, 20, 27, 28b, 28d, 28e and 28f of the AOC and to be liable for and obligated under and for the duration of the AOC to do all acts necessary to fulfill the requirements of the AOC, except for those acts and obligations for which WKI is responsible under the various provisions under the AOC; and

WHEREAS, WKI is the successor in interest under an indemnity agreement with AHP (now Wyeth) dated February 8, 1985 (which agreement was restated and reaffirmed on October 1, 1987), in which AHP, now Wyeth, bears responsibility for the loss and expenses, including legal costs and other expenses for matters relating to acts which occurred on or before September 7, 1984, including costs relating to the clean up of groundwater contamination, soil remediation and the lagoon closure at the Massillon Facility (the "Wyeth Indemnification Agreement"); and

WHEREAS, B&S, EKCO, WKI and Wyeth desire to facilitate the sale of the Massillon Facility, facilitate the continued operation of the corrective actions and remedial systems under the AOC, and provide for Wyeth's continuing access to meet its obligations at the Massillon Facility under this Agreement, the Corrective Action Agreement, and/or the AOC.

NOW, THEREFORE, in consideration of the covenants and agreements of the parties as set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, B&S, Wyeth, WKI and EKCO mutually agree as follows:

1. B&S agrees to (a) comply as the transferee with the use restriction obligations to which WKI is subject at the Massillon Facility under paragraphs 15d, 15e, 21, 22, 23, 25, 30 and 33 of the AOC and with the restrictions for the use of the Massillon Facility contained in the Declaration of Restrictions filed by WKI with the Stark County Recorder's Office, effective as of



December 18, 2002, as Instrument 200212300106953 (collectively the "Property Use Restrictions"); and (b) condition all transfers or leases regarding the Massillon Facility such that the transferee or lessee is required to comply with the Property Use Restrictions. Subject to Paragraph 11 herein, B&S agrees to defend, indemnify and hold WKI harmless from and against any and all liabilities, losses, costs or damages, including reasonable attorney's fees and expenses, resulting from the failure of B&S, or its lessees, successors or assigns to comply with the Property Use Restrictions.

2. B&S shall allow Wyeth, and any and all employees, agents and contractors of Wyeth, access to the Massillon Facility, at all reasonable times and at all places necessary for the purposes of: (a) performing all of the tasks and responsibilities set forth in the AOC and the attachments thereto and for the purpose of conducting oversight of the same and (b) fulfilling Wyeth's obligations under this Agreement. Wyeth will defend, indemnify and hold harmless B&S, its lessees, successor and assigns from and against any and all liabilities, losses, costs or damages, including reasonable attorneys' fees and expenses, resulting from the negligence or willful misconduct of Wyeth or its employees, agents, and contractors while at the Massillon Facility.

3. Subject to any required approval of USEPA and the State of Ohio, Wyeth will take reasonable actions to close, in accordance with applicable requirements of the State of Ohio and on or before December 17, 2004, groundwater monitoring wells R-7, I-7, S-7, I-6, P-5, L-2, L-4, D-1-17, D-2-30, and D-3-17 constructed at the Massillon Facility by or on behalf of Wyeth.

4. Wyeth will undertake an "Electrical Service Options" review (the "Electrical Review") to evaluate the requirements to provide separate electrical services currently being provided by the Massillon Facility for the remedial systems operated by Wyeth. Wyeth will take reasonable actions to conclude the Electrical Review by November 30, 2004. As soon as reasonably possible, and unless otherwise agreed in writing between B&S and Wyeth, Wyeth will provide

separate electrical service to the remedial systems operated by Wyeth. Prior to the provision of separate electrical service, B&S agrees to provide electrical service to the remedial systems and Wyeth agrees to reimburse B&S, within thirty (30) days of Wyeth's receipt of written notice from B&S, for the actual cost based on actual metered usage of electrical service to the remedial systems provided through the Massillon Facility.

5. Wyeth agrees to accept from WKI a transfer of the current NPDES permit number 31C00009\*ED issued by the Ohio Environmental Protection Agency ("Ohio EPA") for the Massillon Facility (the "NPDES Permit").

6. WKI agrees to use its best efforts to obtain an individual air permit or registration status for the Air Stripper Unit at the Massillon Facility (the "Air Stripper Permit") issued by the Ohio EPA. Upon obtaining an individual permit or registration status for the Air Stripper Unit, WKI shall transfer the Air Stripper Permit to Wyeth. Upon transfer, Wyeth agrees to assume full responsibility for compliance with the terms and conditions of the Air Stripper Permit.

7. Wyeth agrees to obtain a Hazardous Waste Identification Number for any hazardous waste generated by the remedial activities under the AOC and to execute Hazardous Waste Generator Notification of Hazardous Waste Activity forms (the "Hazardous Waste forms") as the "generator" and "operator" for any hazardous waste generated by those activities. Wyeth will prepare and submit the Hazardous Waste forms and any other forms required for those hazardous waste activities by Wyeth at the Massillon Facility, including annual reports.

8. Wyeth agrees to defend, indemnify and hold harmless B&S, its lessees, subsidiaries and affiliates, from and against any and all liabilities, losses, costs or damages, including reasonable attorney's fees and expenses, incurred by B&S, its lessees, subsidiaries or affiliates resulting from

Wyeth's remedial activities at the Massillon Facility, or Wyeth's obligations as set forth in this Agreement.

9. B&S, its lessees, successor or assigns shall not contest or otherwise seek to hinder or impede any of the work to be performed by Wyeth under the AOC, or any and all employees, agents and contractors of Wyeth, so long as the activities performed by Wyeth, or any of its employees, agents, or contractors do not materially interfere with (a) the structural integrity of the Massillon Facility; or (b) the day-to-day operations of the Massillon Facility by B&S or its lessees, successors and assigns, during the pendency of the AOC. B&S shall restrict the use of the Massillon Facility by it or its lessees for any activity that may interfere with a remedial action, operation and maintenance, monitoring, or other measure necessary to assure the effectiveness and integrity of the remedy to be implemented under the AOC.

10. The party seeking indemnification pursuant to this Agreement (the "Indemnified Party") shall give (or cause to be given) to the party or parties from whom indemnification is sought hereunder (the "Indemnifying Party") notice of any claim or matter for which indemnity is (or will be) sought under this Agreement. Such notice shall be given promptly after the Indemnified Party receives actual notice or knowledge of the claim or matter that is subject to indemnification.

11. Nothing in this Agreement shall preclude B&S from assigning any of its rights or obligations under this Agreement; *provided, however*, that B&S conditions such assignment upon the assignee agreeing to comply with the obligations of B&S under this Agreement. B&S shall provide prompt notice to Wyeth of any such assignment of its rights or obligations that affect or may affect the remedial activities being conducted by Wyeth at the Massillon Facility. Notwithstanding anything contained herein to the contrary, in the event B&S sells or otherwise transfers the Massillon

Facility to a third party, B&S shall be relieved of its responsibilities under this Agreement, provided that the third party transferee assumes B&S's obligations hereunder.

12. Nothing in this Agreement (a) alters in any way the obligations of Wyeth or WKI under the AOC or the Corrective Action Agreement, or (b) constitutes an assignment of any of Wyeth's or WKI's obligations under the AOC or the Corrective Action Agreement. Nothing contained herein shall obligate B&S to perform (a) WKI's obligations in paragraphs 13 (notice of change of Project Manager), 25a. (but only the portion of this paragraph that follows the first sentence), 28a. (information repository), 28c. (frequent communications/meetings with Wyeth), 36 (retention of data/documents) or other non-Property Use Restrictions under the AOC, or (b) Wyeth's obligations under the AOC. Notwithstanding the foregoing, B&S shall provide to Wyeth, WKI and USEPA the name and telephone number of a B&S employee or agent whom Wyeth, WKI or USEPA can contact regarding matters involving the AOC. B&S shall promptly notify Wyeth, WKI and USEPA of any change in the name or telephone number of the B&S contact person.

13. This Agreement is not intended to and does not affect any claim that any party may have against any other person who is not a party to this Agreement for costs incurred or work done in compliance with environmental laws or arising out of any condition at the Massillon Facility.

14. All notices required or permitted by the Agreement shall be in writing (including telex, telecopy, e-mail or similar writing) and shall be deemed given when received or, in the case of delivery by overnight courier, one day after deposit with a reputable national overnight mail delivery service and shall be given:

if to B&S:

B & S Enterprises, LLC  
11426 Ventura Boulevard, 2<sup>nd</sup> Floor  
Studio City, CA 91604  
Attention: Steve Mattes

With a copy to:

Buckley King LPA

1400 Fifth Third Center  
600 Superior Avenue, East  
Cleveland, Ohio 44114  
Attention: Harry Greenfield

if to Wyeth:

Wyeth

Five Giralda Farms

Madison, New Jersey 07940

Attn: Steven A. Tasher

if to EKCO or WKI:

Raymond J. Kulla

Vice President and General Counsel

World Kitchen, Inc.

11911 Freedom Drive

One Fountain Square, Suite 600

Reston, Virginia 20190-5629

e-mail: [kullarj@worldkitchen.com](mailto:kullarj@worldkitchen.com)

The parties may, by notice given in the same manner set forth above, designate a further or different address to which subsequent notices shall be sent.

15. Within 180 days after the effective completion of Wyeth's obligation under the AOC, Wyeth agrees to (a) close, in accordance with applicable requirements of the State of Ohio, all groundwater monitoring or extraction wells constructed at the Massillon Facility by or on behalf of Wyeth; and (b) remove all equipment associated with the remedial activities. Unless otherwise agreed in writing, all obligations under this Agreement shall terminate 180 days after the effective completion of Wyeth's obligations under the AOC and the attachments thereto in accordance with Section XVII of the AOC.

16. The laws of the State of Ohio shall govern the validity, performance and enforcement of this Agreement.

17. For the convenience of the parties hereto, this Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of them shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

B & S ENTERPRISES, LLC, a California limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

WYETH

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

WORLD KITCHEN, INC.

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

EKCO MANUFACTURING OF OHIO, INC.

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_



Five Giralda Farms  
Madison, NJ 07940

**Ronald J. Schott, Esq.**  
Senior Attorney  
Environmental Affairs  
973-660-6641 tel  
973-660-7176 fax

April 9, 2003

**VIA FACSIMILE AND REGULAR MAIL**

Mr. Kenneth Bardo  
Project Manager  
United States Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

**RE:** EKCO-Massillon, OH  
AOC/AOC-Scope of Work  
EPA ID No. OHD 045-205-424  
U.S. EPA Docket No.: RCRA-05-2002-0010

Dear Mr. Bardo:

In accordance with the terms and requirements of: (i) your March 10, 2003 correspondence, (ii) the November 22, 2002 Administrative Order on Consent, and (iii) Subpart H of 40 CFR 264 and 265, enclosed please find the following documents in support of Wyeth's use of the financial test to demonstrate financial assurance for the above-referenced site:

1. A letter signed by the Wyeth's chief financial officer, worded as specified in §264.151(f);
2. A copy of the independent certified public accountant's report on examination of Wyeth's financial statements for the latest completed fiscal year; and
3. A special report from Wyeth's independent certified public accountant to Wyeth.

We trust that you will find this information satisfactory.

If you have any questions, please feel free to contact me at your convenience.

Very truly yours,

Ronald J. Schott

Enclosures

cc: Christine Liszewski, Esq., USEPA Region 5  
Mr. Matthew Basso  
Mr. Steven Chase  
Keely O'Bryan, Esq.

Wyeth Pharmaceuticals  
Wyeth Consumer Healthcare  
Fort Dodge Animal Health





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

NOV 01 2002

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

C-14J

Ms. Keely J. O'Bryan, Esq.  
Thompson Hine LLP  
3900 Key Center  
127 Public Square  
Cleveland, Ohio 44114-1291

Re: RCRA 3008(h) Consent Order  
World Kitchen, Inc.  
Docket No. RCRA-05-2002-0010

Dear Ms. O'Bryan:

I am writing in response to your October 8, 2002 letter to Ken Bardo and the enclosed draft DECLARATION OF RESTRICTIONS ( the DECLARATION) that you submitted for EPA review pursuant to paragraph 26 of the above-referenced consent order. We have reviewed the DECLARATION and approve it subject to revision of two items. First, it appears that there are two typographical errors in the introductory paragraph of the DECLARATION, i.e., ECKO MANUFACTURING should be EKCO MANUFACTURING and Ecko Housewares should be Ekco Housewares. Second, in paragraph 4.(b), please delete "water" before "wells" and "in connection therewith" after "excavation of any soil". In addition, please send me a copy of the warranty deed dated December 12, 1995 that is referenced in the first paragraph of the DECLARATION.

I can be reached at (312) 886-4670 if you have any questions.

Sincerely,

Christine M. Liszewski  
Associate Regional Counsel

cc: Ronald J. Schott, Esq.  
American Home Products Corporation

bcc: Ken Bardo, WPTD

October 8, 2002

*By FedEx and Fax*

Mr. Ken Bardo  
United States Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590


**RE: RCRA 3008(h) Consent Order**  
**World Kitchen, Inc.**  
**OHD 045 205 424**  
**RCRA-05-2002-0010**

Dear Mr. Bardo:

In accordance with paragraph 26 of the Administrative Order on Consent In the Matter of World Kitchen, Inc. and American Home Products Corporation, World Kitchen, Inc. encloses for your review and approval a Declaration of Restrictions.

Please do not hesitate to contact me if you should have any questions.

Sincerely,



Keely J. O'Bryan

Enclosures

cc: Joseph M. Boyle,  
Chief Enforcement and Compliance Assurance Branch  
Waste, Pesticides and Toxics Division  
Ronald J. Schott, Esq.  
Raymond J. Kulla, Esq.  
Mr. Jeffrey L. Burman  
Michael A. Cyphert, Esq.

Keely.OBryan@ThompsonHine.com Phone 216.566.5686 Fax 216.566.5800

skc 10828821.1

**World Kitchen, Inc.**

Massillon Plant  
PO Box 560  
Massillon, OH 44648

330 832 5026  
fax: 330 833 8003  
www.worldkitchen.com



September 6, 2002

Mr. Kenneth Bardo  
Project Manager  
United States Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

RE: EKCO-Massillon, OH  
AOC / AOC-Scope of Work  
EPA ID No. OHD 045-205-424  
U.S. EPA Docket No.: RCRA-05-2002-0010

Dear Mr. Bardo:

This letter is to confirm that I am designated as project manger representing World Kitchen Inc. for the corrective measures implementation of the referenced Administrative Order on Consent (AOC) and associated AOC-Scope of Work, which became effective on August 27, 2002. The effective date is based on our date of receipt of the fully executed AOC. The designation of a project manager is required as per Paragraph No.13 Section V of the effective AOC, and is required of each party involved. We are advising WKI of our designated project manager via copy of this notification to USEPA.

Sincerely yours,

Jeffrey L. Burman  
Technology Manager

cc: R. Kulla - WKI  
J. Rowlett - WKI  
M. Basso - Wyeth  
L. Bove - Weston

Baker's Secret

Chicago Cutlery

Corelle

CorningWare

EKCO

Grilla Gear

Magnalite

Olfa

OXO

Pyrex

Regent Sheffield

Revere

Via

Visions

Wagner

Wiltshire

August 28, 2002

DE-9J

CERTIFIED MAIL 7099 3400 0000 9586 1531  
RETURN RECEIPT REQUESTED

Mr. Matthew Basso  
Manager, Environmental Affairs  
Wyeth  
100 Campus Drive  
Florham Park, NJ 07932

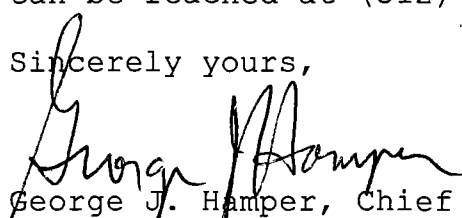
RE: RCRA 3008(h) Consent Order  
World Kitchen, Inc.  
U.S. EPA ID # OHD 045 205 424

Dear Mr. Basso:

In accordance with Section V of the Administrative Order on  
Consent, Docket No. RCRA-05-2002-0010, this letter serves notice  
that Mr. Kenneth S. Bardo has been designated as the U.S. EPA  
Project Manager.

If you have any questions regarding the Consent Order, Mr. Bardo  
can be reached at (312) 886-7566 or at [bardo.kenneth@epa.gov](mailto:bardo.kenneth@epa.gov).

Sincerely yours,

  
George J. Hamper, Chief  
Corrective Action Section  
Enforcement and Compliance Assurance Branch

cc: Bryan Jones, EKCO  
Karen Nesbit (via E-mail), Ohio EPA

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Matt Basso, Manager  
Environmental Affairs  
Wyeth  
100 Campus Drive  
Florham Park, NJ 07932

## 2. Article Number (Copy from service label)

7099 3400 0000 9586 1531

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

## COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

X

*[Signature]*

☐ Agent☐ Addressee

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

## 3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

## 4. Restricted Delivery? (Extra Fee)

☐ Yes

Article Sent To:

K. Bardo, DE-95

## U.S. Postal Service

## CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

Postage

\$ 0.37

Certified Fee

2.30

Return Receipt Fee  
(Endorsement Required)

1.75

Restricted Delivery Fee  
(Endorsement Required)

Total Postage &amp; Fees

\$ 4.42

Name (Please Print Clearly) (to be completed by mailer)

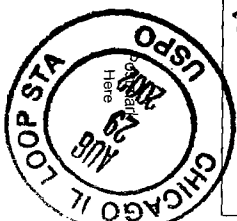
Matt Basso

Street, Apt. No., or PO Box No.

100 Campus Drive

City, State ZIP+4

Florham Park, NJ 07932



bcc: Ken Bardo, ECAB

DE-95:KBARDO:8/28/02:kb:6-7566

World Kitchen Project Manager

7099 3400 0000 9586 1531

PS Form 3800, July 1999

See Reverse for Instructions

100 Campus Drive  
Florham Park, NJ 07932

**Matt Basso**  
Manager, Environmental Affairs  
Environment & Safety  
(973) 683-2273 tel  
bassom@wyeth.com



August 27, 2002

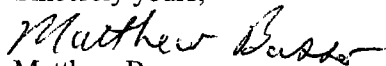
Mr. Kenneth Bardo  
Project Manager  
United States Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard, DE-9J  
Chicago, IL 60604-3590

RE: EKCO-Massillon, OH  
AOC / AOC-Scope of Work  
EPA ID No. OHD 045-205-424  
U.S. EPA Docket No.: RCRA-05-2002-0010

Dear Mr. Bardo:

This letter is to confirm that I am designated as project manger representing Wyeth (formerly American Home Products Corporation) for the corrective measures implementation of the referenced Administrative Order on Consent (AOC) and associated AOC-Scope of Work, which became effective on August 26, 2002. The effective date is based on our date of receipt of the fully executed AOC. The designation of a project manager is required as per Paragraph No.13 Section V of the effective AOC, and is required of each party involved. We are advising WKI of our designated project manager via copy of this notification to USEPA.

Sincerely yours,

  
Matthew Basso

cc: G. Smith - Wyeth  
R. Schott - Wyeth  
T. Donohue - Wyeth  
K. Bourdeau - B&D  
J. Burman - WKI  
L. Bove - Weston

AUG 22 2002

DE-9J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Ms. Keely J. O'Bryan, Esq.  
Thompson Hine  
3900 Key Center  
127 Public Square  
Cleveland, Ohio 44114-1291

RE: RCRA 3008(h) Consent Order  
World Kitchen, Inc.  
OHD 045 205 424

Dear Mr. Schott:

This letter is to acknowledge receipt of the Section 3008(h) Administrative Order on Consent signed by American Home Products Corporation and World Kitchen, Inc. A fully executed copy of the Consent Order is enclosed.

Your cooperation in resolving this matter is appreciated.

Sincerely yours,

Joseph M. Boyle, Chief  
Enforcement and Compliance Assurance Branch  
Waste, Pesticides and Toxics Division

Enclosure

cc: Matthew Basso, American Home Products Corporation  
Bryan N. Jones, EKCO Manufacturing of Ohio  
Karen Nesbit, Ohio EPA



DE-9J:KBARDO:8/14/02:kb:6-7566

EKCO Final AOC Transmittal  
Letter

bcc: Christine Liszewski, ORC  
Kenneth Bardo, ECAB

**ENFORCEMENT AND COMPLIANCE ASSURANCE BRANCH/OFFICE OF REGIONAL COUNSEL**

SECRETARY	SECRETARY	SECRETARY	SECRETARY	SECRETARY
AUTHOR/ TYPIST	CORRECTIVE ACTION SECTION CHIEF	ORC ATTORNEY	ORC SECTION CHIEF	ECAB CHIEF
KB 8/14/02	YHA 8-14-02	CBG 8/15/02		Jon B 8/22/02

OFFICE OF REGIONAL COUNSEL CONCURRENCE SHEET

SUBJECT: American Home Products AOC  
RCBA § 3008(b) Ltr. to G. Smith w/ 3 originals

CONTROL NO. (if applicable): \_\_\_\_\_

Originator and first level supervisor are responsible for assuring that documents are in plain language. All other reviewers should consider plain language in their reviews. See plain language checklist on reverse side of this sheet.

Originator	(C. Liszewski)	CMZ	Date	2/25/02
Section Chief	(R. Field)	RCJ	Date	2/25/02
Branch Chief	(Smith/Cohen)		Date	
Deputy RC	( )		Date	
Regional Counsel	(Frey (Acting))		Date	

COMMENTS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(PLEASE INDICATE NAME OF APPROPRIATE DIVISION(S) WHERE CONCURRENT SIGNOFF IS NECESSARY)

NAME OF DIVISION WPTD

Assigned Staff Person	(K. Bardo)	KB	Date	2/25/02
<del>CAS</del> Section Chief	(G. Hamper)	GH	Date	2-26-02
<del>Division Director</del>	(J. Boyle)	JMB	Date	3/11/02
Other	( )		Date	
Other	( )		Date	

OFFICE OF THE REGIONAL ADMINISTRATOR

Other	( )	Date	
Other	( )	Date	
Deputy Regional Administrator	(Ullrich)	Date	
Regional Administrator	(Skinner)	Date	

COMMENTS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

## Plain Language Checklist

**Write in the active voice.** When you use the active voice, the subject of the sentence acts: "EPA issued the permit to X." When you use the passive voice, the subject of the sentence is acted upon: "The permit was issued to X." If you can ask "By whom?" or "By what?" after the verb, the verb is in the passive voice. A passive verb has a form of the verb "to be" (am, is, are, was, were, be, being, been) plus a main verb usually ending in "en" or "ed."

**Use action verbs.** Use base verbs instead of nouns derived from verbs.

Don't Say	Say	Don't Say	Say
is applicable to	applies to	make payment	pay
give consideration to	consider	take action	act

**Use personal pronouns to represent the reader and to refer to EPA.** For example, "The United States Environmental Protection Agency is issuing an order to X (you). We are offering you..."

**Write short sentences to aid comprehension.** Put one main thought in most sentences. Divide a long sentence into two or three short sentences. Remove all unnecessary words. If there are several conditions or subordinate provisions, make a list.

**Omit surplus words and redundancies.** Question the need for every word.

Don't Say	Say	Redundancies
for the period of	for	true and correct
in order to	to	cease and desist
in the event that	if	order and direct

**Place words carefully to reduce ambiguity.** Keep subjects and objects close to verbs. Put modifying phrases and words such as "only" and "always" next to the word they modify. She *only* said that he hired her. She said that *only* he hired her. She said that he hired *only* her.

**Be consistent.** Don't use different words to refer to the same thing (car, vehicle, automobile).

**Limit your use of abbreviations, acronyms, and capital letters.** Use abbreviations and acronyms to refer only to terms that are central to the document. Do not abbreviate terms that you use only a few times. Use capital letters to begin sentences, proper names, and titles and for headings. You should reconsider all other uses.

**Visit the government's plain language web site at [www.plainlanguage.gov](http://www.plainlanguage.gov).**

August 13, 2002

*By FedEx*

Ms. Christine M. Liszewski  
Associate Regional Counsel  
United States Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

RE: In the Matter of World Kitchen, Inc. and American Home Products Corp.  
RCRA §3008(h) Administrative Order on Consent  
U.S. EPA Docket No: R8H-5-02-00

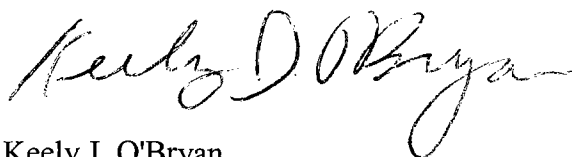
Dear Ms. Liszewski:

Per Ron Schott's request, and to expedite your receipt of the enclosed, I am sending you three originals of the RCRA §3008(h) Administrative Order on Consent in the above-captioned matter signed by an American Home Products Corp. representative and a World Kitchen, Inc. representative.

Please return an original to each party after the Order is fully executed.

Please do not hesitate to contact me with any questions.

Sincerely,



Keely J. O'Bryan

Enclosures

cc: Ronald J. Schott, Esq.  
Raymond J. Kulla, Esq.  
Mr. Jeffrey L. Burman  
Michael A. Cyphert, Esq.

Keely.OBryan@ThompsonHine.com Phone 216.566.5686 Fax 216.566.5800

skc

(h)  
**RCRA 3008(a) CONSENT AGREEMENT AND FINAL ORDER  
CONCURRENCE/ROUTING FORM**

**PART I. Background**

FACILITY NAME World Kitchen Inc.  
A ID# OH0 045 205 424  
ECAB ASSIGNEE Ken Bardo  
PHONE 607-2566

DOCKET NUMBER \_\_\_\_\_  
ASST. REG. COUNSEL Chris Kirewski  
PHONE 6-4670

**PART II. Proposed CAFO and Concurrences**—The proposed CAFO package must include the following documents:

- Tab 1. Transmittal letter to Respondent's attorney
- Tab 2. Proposed CAFO (2 copies)
- Tab 3. Settlement penalty calculation sheets and BEN
- Tab 4. Initial complaint (or most recently amended)
- Tab 5. Initial complaint penalty calculation sheets and BEN
- Tab 6. Draft press release.

	INITIALS	DATE	CONCUR	CONCUR WITH MODIFICATIONS
1. ECAB ASSIGNEE				
2. ECAB SEC. CHIEF	(See ORC Concurrence Sheet Below)			
3. ASST. REG. COUNSEL				
4. ECAB CHIEF				

The ECAB Chief returns the proposed CAFO package to the ECAB Assignee for corrections, if necessary, and for delivery to the Asst. Regional Counsel who will send two copies of the proposed CAFO to the Respondent.

**PART III. Final CAFO Concurrences and Signature**—After the Respondent has signed both copies of the proposed CAFO, the final CAFO package must include the following documents:

- Tab 1. Memorandum to WPTD Director
- Tab 2. Transmittal letter
- Tab 3. Both CAFOs, bearing the original signature of the Respondent
- Tab 4. The completed CCDS and RCRAinfo Form
- Tab 5. Addressed envelopes, Certified Mail/Return Receipt documents, and Certificate of Service
- Tab 6. Final press release and weekly report submittal.

	INITIALS	DATE	CONCUR
1. ECAB ASSIGNEE	<u>KB</u>	<u>8/14/02</u>	<u>Yes</u>
2. ECAB SEC. CHIEF	<u>MA</u>	<u>8-14-02</u>	<u>Yes</u>
3. ASST. REG. COUNSEL	<u>CRK</u>	<u>8/15/02</u>	<u>YES</u>
4. ORC SECTION CHIEF	<u>Richard</u>	<u>8/15/02</u>	<u>Yes</u>
5. ECAB CHIEF	<u>JMB</u>	<u>8/22/02</u>	<u>yes</u>
<del>6. DIRECTOR, WPTD</del>			
<del>7. REGIONAL ADM. (multi-statute only)</del>			

After signing, return the entire package to the Administrative Program Assistant (DE-9J) for filing with the Regional Hearing Clerk.

**PART IV. Filing and Mailing**

Date filed \_\_\_\_\_ Initials \_\_\_\_\_ (Administrative Program Assistant or, if needed, Section Secretary)  
Date mailed \_\_\_\_\_ Initials \_\_\_\_\_ (The Section Secretary will mail and distribute the copies.)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

12 MAR 2002

REPLY TO THE ATTENTION OF

C-14J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Geraldine A. Smith, Esq.  
Senior Corporate Counsel  
American Home Products Corp.  
Five Giralda Farms  
Madison, NJ 07940

Re: In the Matter of World Kitchen, Inc. and American Home Products Corp.  
RCRA § 3008(h) Administrative Order on Consent  
U.S. EPA Docket No: R8H-5-02-00

Dear Geraldine:

Enclosed are three originals of the final RCRA § 3008(h) administrative order on consent and scope of work for the above-referenced matter. Please have the appropriate officials of American Home Products Corp. and World Kitchen, Inc. sign all three originals and return them to me within 14 days after receipt. We will mail two fully-executed originals to you after the order is signed by the official authorized to enter into the agreement on behalf of U.S. EPA.

Thank you for your cooperation in resolving this matter. If you have any questions, please contact me at 312/886-4670.

Sincerely,

Christine M. Liszewski  
Associate Regional Counsel

Enclosures

bcc: . K. Bardo, WPTD

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on 50% Recycled Paper (20% Postconsumer)

the section to provide a footnote reference. AHP requested clarification regarding the footnote, since it added confusion as to what the "compliance points" will be for EPA's Final Decision Alternative GW-6. I noted that AHPC had written this Section at the direction of EPA, to specify "one final sampling event" for "remaining site wells", where the remaining site wells are specified as W-1, W-2, W-10, I-2, I-4, I-5, L-1, L-5 and R-1.

Our discussion provided the following clarifications:

- The phrases "point of compliance" and "compliance point" are used interchangeably by EPA to mean the same thing.

"The course of action may also include alternative corrective measures that AHP may submit, including but not be limited to the following: engineering controls, institutional controls, and monitored natural attenuation. The USEPA shall approve AHP's proposal if it is protective of human health and the environment, based on current and reasonably anticipated land and groundwater use."

**Page 7, SubSection 3.4.2b. *"Within 30 days after the performance monitoring period has ended..."*** EPA moved this section from Section 3.4.2, Paragraph No.1 of the AHPC submitted "SW". AHPC had provided the word "longer" to describe the alternative schedule to provide reports that may be approved by EPA. The EPA has replaced the word "longer" with the word "other".

Our discussion provided the following clarification:

The EPA noted that alternative schedules are described as "other" schedules, but always mean longer duration schedules. AHPC noted that the word "longer" would be the appropriate description of the alternative schedule for delivery of reports.

**AHPC's Requested Change:**

AHP requests that at the end of the Paragraph No.2 the word "longer" be restored to replace the word "other".

**Page 8, SubSection 4.1b. *"If soil confirmation sampling does not confirm ..."***

**AHPC's Requested Change:**

AHPC requests that at the end of the section the following clarification be added:

"The alternative corrective measures that AHP may submit may include, but are not limited to the following: engineering controls and institutional controls. The USEPA shall approve AHP's proposal if it is protective of human health and the environment, based on current and reasonably anticipated land and groundwater use."

**Page 8, SubSection 4.1d. *"The soil remediation will continue in any of the SVE ..."***

**AHPC's Requested Change:**

AHPC requests that at the end of the section the following clarification be added:

"The course of action may also include alternative corrective measures that AHP may submit, including but not be limited to the following: engineering controls and institutional controls. The USEPA shall approve AHP's proposal if it is protective of human health and the environment, based on current and reasonably anticipated land and groundwater use."

**Page 9, Section 4.3 *"Soil Remediation Reporting"***

**AHPC's Requested Change:**

AHP requests that the word "longer" be inserted into the eighth line, to read as follows: "... within 30 days of receipt of the comments from U.S. EPA, or under such longer schedule as approved..."

**II. Administrative Order On Consent -Scope of Work Schedule Table-1**

1. Provide a double asterick ("\*\*") at the end of the eighth Event item - "Submit first Progress Report and submit quarterly thereafter", to footnote the fact that another schedule maybe used, as approved by EPA.

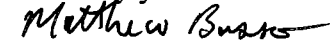
2. AHPC has agreed to change the schedule for submittal of a Data Management Plan and a Project Management Plan, to 45 days from 60 days, as of the effective date of the AOC. EPA agreed that submittal schedule of a Site Health and Safety Plan can be changed from 45 days to 60 days, as of the effective date of the AOC.

### **III . Administrative Order On Consent (AOC)**

All requested changes regarding technical matters associated with the draft Administrative Order On Consent, will be provided to EPA separately.

AHPC appreciates your attention to this request for clarification.

Sincerely yours



Matthew Basso

Manager, Environmental Affairs

American Home Products Corporation

cc: G. Smith - AHPC  
K. Koneval - AHPC  
P. Howard - AHPC  
K. Bourdeau - B&D  
L. Bove - Weston  
T. Cornute - Weston





Roy F. Weston, Inc.  
1400 Weston Way  
P.O. Box 2653  
West Chester, Pennsylvania 19380  
610-701-3000 • Fax 610-701-3186  
www.rfweston.com

21 August 2001

Mr. Kenneth Bardo  
Project Manager  
United States Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

Re: EKCO/World Kitchen, Massillon, Ohio, Facility  
U.S. EPA ID No. OHD 045-205-424  
Administrative Consent Order Scope of Work

Dear Mr. Bardo:

On behalf of our client, American Home Products Corporation (AHPC), please find attached two bound copies of the Administrative Consent Order Scope of Work for the EKCO/World Kitchen facility in Massillon, Ohio.

You may contact me at (610) 701-7360 or Mr. Matthew Basso at (973) 683-2273, if you have any questions or comments regarding this report.

Very truly yours,

ROY F. WESTON, INC.

Thomas S. Cornuet, P.G.  
Project Manager

cc: M. Basso, AHPC  
K. Koneval, AHPC  
G. Smith, AHPC  
P. Howard, AHPC  
J. Burman, EKCO  
L. Bove, WESTON





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF

DE-9J

August 22, 2002

**CERTIFIED MAIL** 7099 3400 0000 9585 3970

**RETURN RECEIPT REQUESTED**

Ms. Geraldine Smith, Esq.  
Senior Corporate Counsel  
American Home Products Corporation  
Five Giralda Farms  
Madison, NJ 07940

RE: RCRA 3008(h) Consent Order  
World Kitchen, Inc.  
OHD 045 205 424

Dear Ms. Smith:

**RCRA-05- 2002-0010**

This letter is to acknowledge receipt of the Section 3008(h) Administrative Order on Consent signed by American Home Products Corporation and World Kitchen, Inc. A fully executed copy of the Consent Order is enclosed.

Your cooperation in resolving this matter is appreciated.

Sincerely yours,

A handwritten signature in cursive script that reads "Joseph M. Boyle".

Joseph M. Boyle, Chief  
Enforcement and Compliance Assurance Branch  
Waste, Pesticides and Toxics Division

Enclosure

cc: Matthew Basso, American Home Products Corporation  
Bryan N. Jones, EKCO Manufacturing of Ohio  
Karen Nesbit, Ohio EPA

DE-9J:KBARDO:8/14/02:kb:6-7566

EKCO Final AOC Transmittal  
Letter

bcc: Christine Liszewski, ORC  
Kenneth Bardo, ECAB ✓

ENFORCEMENT AND COMPLIANCE ASSURANCE BRANCH/OFFICE OF REGIONAL COUNSEL

SECRETARY	SECRETARY	SECRETARY	SECRETARY	SECRETARY
AUTHOR/ TYPIST	CORRECTIVE ACTION SECTION CHIEF	ORC ATTORNEY	ORC SECTION CHIEF	ECAB CHIEF
KB 8/14/02	YH 8-14-02	CKX 8/15/02		JHB 8/22/02

**FINAL  
ADMINISTRATIVE CONSENT ORDER  
SCOPE OF WORK  
EKCO/World Kitchen Facility**

**U.S. EPA ID No. OHD 045-205-424**

August 2001

Prepared for

**AMERICAN HOME PRODUCTS CORPORATION**  
100 Campus Drive  
Florham Park, NJ 07932

Prepared by

**ROY F. WESTON, INC.**  
1400 Weston Way  
West Chester, Pennsylvania 19380

---

## TABLE OF CONTENTS

---

Section	Page
1. INTRODUCTION.....	1-1
2. SCHEDULE OF REMEDIATION AND CONSENT ORDER ACTIVITIES (PARAGRAPHS 14 AND 17) .....	2-1
3. GROUNDWATER REMEDIATION .....	3-1
3.1 GROUNDWATER CORRECTIVE MEASURES ALTERNATIVE .....	3-1
3.2 GROUNDWATER MONITORING PROGRAM.....	3-1
3.3 GROUNDWATER REMEDIATION REPORTING .....	3-4
3.4 AIR SPARGING SYSTEM.....	3-5
3.4.1 Groundwater Air Sparging Completion.....	3-5
3.4.2 Groundwater Air Sparging Reporting.....	3-7
4. SOIL REMEDIATION .....	4-1
4.1 SOIL CORRECTIVE MEASURE ALTERNATIVES .....	4-1
4.2 SOIL MONITORING PROGRAM .....	4-1
4.3 SOIL REMEDIATION REPORTING .....	4-3
5. REFERENCES.....	5-1

### APPENDIX A      Monitor Well Selection Rationale

---

## LIST OF TABLES

---

Table	Page
Table 1   Administrative Consent Order Schedule	4-4

---

## LIST OF FIGURES

---

Figure	Page
Figure 1   Soil Vapor Extraction (SVE) and Air Sparging Areas	4-5

## 1. INTRODUCTION

This Scope of Work (SW) sets forth the work to be conducted to implement Section VI of the Administrative Consent Order (ACO). Paragraphs 12 through 31 in the ACO address the “Work to Be Performed” under the new ACO and Paragraphs 12 through 20 focus on the site soil and groundwater remediation and related activities. The SW is provided to identify the soil and groundwater remediation work that will be performed at the World Kitchen facility, and includes the following sections:

- Schedule of Remediation and Consent Order Activities (Paragraphs 14 and 17 of the ACO).
- Groundwater Remediation (Paragraphs 14 and 18 of the ACO).
- Soil Remediation (Paragraphs 14 and 17 of the ACO).

American Home Products Corporation (AHPC) will provide the following documents to the U.S. EPA as per the ACO schedule included as Table 1:

- Progress Reports
- Site Health and Safety Plan
- Sampling and Analysis Plan
- Quality Assurance Project Plan (consistent with U.S. EPA, 1998)
- Community Relations Plan
- Institutional Control Plan (consistent with U.S. EPA, 2000a)
- Project Management Plan
- Data Management Plan
- Soil Vapor Extraction (IS-2 and OS-3) and Air Sparging (GW-6) Design Report
- Construction Completion Report and Operation and Maintenance Plan

## **2. SCHEDULE OF REMEDIATION AND CONSENT ORDER ACTIVITIES (PARAGRAPHS 14 AND 17)**

The Corrective Measures Study (CMS) estimated that it would require more than 30 years to clean up the groundwater contamination at the World Kitchen facility. Since the time that the CMS (WESTON 1993) and CMS Addendum (WESTON 1994) were submitted and approved, the soil performance standards have been changed and the soil and groundwater performance standard lists have been expanded (WESTON, 2001). A summary of the current remediation status, in addition to these administrative changes, is provided below:

- As documented in the CMS, all impacted groundwater beneath the World Kitchen facility is being contained by the pumping of recovery wells W-1 and W-10 and treated by the operation of the on-site air stripper. These wells have been operated since the 1940's and the air stripper has been operated since 1986.
- The planned groundwater remediation program for the facility (CMS Alternative GW-6) consists of continuing the ongoing pump and treat system, incorporating pulse pumping of the recovery wells, and adding air sparging (AS) in the shallow zone.
- The planned soil remediation program for the facility consists of implementing soil vapor extraction (SVE) in three areas (Area-1, Area-2, and Area-3 East) outside the building (CMS Alternative OS-3), and in one area (Area-4) inside the building (CMS Alternative IS-2).
- Contamination in one of the areas (Area-3) identified in the CMS as containing impacted soil when last sampled in 1992 has since been shown, through the recent soil investigation program (WESTON, 2001), to have naturally attenuated to concentrations below the new lower soil performance standards; therefore, no soil remediation is needed in that area. Contamination exceeding the soil performance standards was identified, through the recent soil investigation program, east of Area 3 (Area-3 East). SVE will be implemented in Area-3 East. Subsequent references to soil CMS Alternative OS-3 will include moving the SVE originally planned for Area-3 to Area-3 East.

A schedule for implementing the remediation activities in the ACO is included as Table 1. This is a schedule that is based on the use of proven remediation technologies and a fast-track design and installation approach. The schedule provided herein includes

installation and startup of the air sparging/soil vapor extraction (AS/SVE) system in one year of the effective date of the ACO. The schedule also includes the implementation of a quarterly groundwater monitoring program within 60 days of entering the ACO.



### 3. GROUNDWATER REMEDIATION

This section of the SW discusses the following aspects of the ACO groundwater remediation:

- Groundwater Corrective Measures Alternative
- Groundwater Monitoring Program
- Groundwater Remediation Reporting
- Air Sparging System

#### 3.1 GROUNDWATER CORRECTIVE MEASURES ALTERNATIVE

The groundwater remediation approach selected from the CMS is Alternative GW-6, which consists of pulse pumping of groundwater from wells W-1 and W-10 with treatment via air stripping, and air sparging in the shallow groundwater. In order to maintain the groundwater remediation schedule, the groundwater remediation system will be operated continuously except for periodic maintenance activities. The operation and maintenance procedures for the groundwater remediation system will be provided in the Operation and Maintenance Plan. The groundwater remediation system operations will be recorded either daily by on-site World Kitchen maintenance personnel, or automatically with electronic data loggers. The operation and maintenance schedule and total operation time will be documented in the quarterly monitoring reports to be submitted under the ACO (the frequency of these reports may be altered upon approval by EPA and they are hereinafter referred to as periodic reports). Paragraph 14 in the ACO requires the implementation of a groundwater monitoring program to monitor the shallow and bedrock aquifers at the facility. The goal of this program is to monitor the progress of groundwater remediation and establish the basis to determine the completion of the program.

#### 3.2 GROUNDWATER MONITORING PROGRAM

The wells that are sampled as part of the groundwater monitoring program are classified into three categories: compliance wells, assessment wells, and background wells. Compliance wells will be used as "compliance points", which are defined in the RCRA program as follows (U.S. EPA, 2000b): *"the point of compliance for groundwater, in the context of RCRA corrective action, represents where the facility should meet groundwater cleanup levels within a contaminated aquifer at the conclusion of the final remedy (i.e., the facility has achieved its final*

remediation goals)". The compliance wells will be used in a comparison to the groundwater performance standards to determine if remediation is complete. Assessment wells will be used to assess groundwater remediation system progress and to determine if changes are needed in recovery well pumping rates, air sparging flow rates, and pulse pumping schedules. The assessment wells will not be used to determine compliance with groundwater performance standards. The background well will be used to monitor background (upgradient) conditions. The following compliance, assessment, and background wells will be included in the groundwater monitoring program:

- Shallow zone: well L-3 (background), wells L-5 and AS-1 (assessment), well S-4 (compliance).
- Bedrock zone: Wells R-2, R-3, R-4 and R-5 (compliance)
- Bedrock zone production/recovery wells: wells W-1 and W-10 (assessment).

Rationale for the selection of these wells is provided in Appendix A of this Scope of Work. All compliance wells, assessment wells and the background well will be sampled quarterly for the first 5 years. However, AHPC reserves the right to petition U.S. EPA to reduce the number of wells sampled, the frequency of sampling, and/or the constituents being sampled for during and after that period. U.S. EPA shall grant that request if performance of the activities that are the subject of the petition are not necessary to protect human health or the environment. At a minimum, after 5 years of quarterly monitoring, the groundwater sampling schedule for all wells will be reduced to semi-annual.

Groundwater Pump and Treat System Completion: The groundwater pump and treat system will no longer be required to operate and the groundwater sampling program will no longer be required to be implemented based on the following process:

- a. The groundwater pump and treat system will no longer be required to operate once the groundwater monitoring program sampling data show that no groundwater performance standards (see 3.2-b below) were exceeded at any compliance well during two consecutive sampling events, and for the remaining site wells (W-1, W-2, W-10, I-2, I-4, I-5, L-1, L-5, and R-1) or some subset of these wells agreed upon by the U.S. EPA and AHPC, for one sampling event. Within 30 days of the validation of this data, AHPC will

submit the validated data in a report to the U.S. EPA (see 3.3 below) and enter a performance monitoring period (see 3.2-d below).

- b. The groundwater monitoring program will consist of the following: all compliance wells, assessment wells and the background well (as described in Section 3 above) will be sampled quarterly for the first 5 years (except as U.S. EPA shall otherwise determine in response to a petition from AHPC). At a minimum, after 5 years of quarterly monitoring, the groundwater sampling schedule for all wells will be reduced to semi-annual. All compliance, assessment, and background wells will be analyzed for the site-specific target compounds for which the following performance standards have been established:

- 1,1-dichloroethane = 810 µg/l
- 1,1-dichloroethylene = 7 µg/l
- cis-1,2-dichloroethylene = 70 µg/l
- trans-1,2-dichloroethylene = 100 µg/l
- 1,1,1-trichloroethane = 200 µg/l
- trichloroethylene = 5 µg/l
- vinyl chloride = 2 µg/l

If at any time during the sampling program, groundwater sampling data from one or more of the compliance wells are questioned, AHPC will initiate a discussion with EPA to determine an appropriate course of action. This course of action may include the resampling of one or more of the wells and resubmitting the new data in replacement of the previously collected data.

- c. If within five years after entering the ACO, groundwater performance standards are not met as required under the SW, the soil and groundwater remediation systems have operated in accordance with the Operation and Maintenance Plan, and the concentrations in the compliance wells have reached steady-state levels (i.e., the groundwater concentrations remain constant within  $\pm 10\%$  over a 1-year period, or as agreed upon by U.S. EPA and AHPC), AHPC has the option at any time to reevaluate the relevant points of compliance, the groundwater performance standards (U.S. EPA, 1988, and/or other applicable guidance in effect at the time) which have not been met and/or evaluate alternative corrective measures (e.g., U.S. EPA, 1993, U.S. EPA, 1998, and/or other applicable guidance in effect at the time) and submit a document to the U.S. EPA

proposing new groundwater performance standards and/or alternative corrective measures as necessary to protect human health and the environment. The new groundwater performance standards based on steady-state conditions shall be agreed upon by U.S. EPA and AHPC.

- d. The groundwater pump and treat system performance-monitoring period will be started after the groundwater pump and treat system is no longer required to operate (see 3.2-a). The performance-monitoring period will consist of quarterly groundwater sampling of all compliance and background wells (see 3.2-b) for 2 years. Within 30 days of the validation of the data obtained during each quarterly performance monitoring period, AHPC will submit the validated data in a report to the U.S. EPA (see 3.3). If no groundwater performance standards are exceeded in the compliance wells during the performance monitoring period, and in the remaining site wells (W-1, W-2, W-10, I-2, I-4, I-5, L-1, L-5, and R-1) or some subset of these wells agreed upon by the U.S. EPA and AHPC, for one sampling event conducted at the conclusion of the performance monitoring period, then AHPC may terminate the performance monitoring program and shall submit the groundwater remediation and monitoring report required under Section 3.3 below.
- e. If one or more of the groundwater performance standards (listed in 3.2-b) is exceeded in one or more of the compliance wells during the performance monitoring period, or in one of the remaining site wells during the sampling event referenced in Paragraph 3.2-d, AHPC will initiate a discussion with the U.S. EPA to determine an appropriate course of action. This course of action may include additional operations of the groundwater pump and treat system.

### **3.3 GROUNDWATER REMEDIATION REPORTING**

Within 30 days after AHPC determines, based on validated site data, that the groundwater performance standards have been attained at the facility, both prior to (see 3.2-a), and at the completion of (see 3.2-d), the performance monitoring period, AHPC shall submit a written report to U.S. EPA for review and approval. In the report submitted after completion of the performance monitoring period, a registered professional engineer or geologist and AHPC's

Project Manager shall state in the report that the groundwater performance standards have been attained in satisfaction of requirements of the Order, to the best of their knowledge, or that AHPC has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA. The report submitted prior to the commencement of the performance monitoring period shall include a description of the performance-monitoring to be performed to ensure that groundwater performance standards continue to be attained after the groundwater pump and treat system is no longer required to operate. AHPC shall revise and submit both reports in response to U.S. EPA's written comments, if any, within 30 days of receipt of the comments from U.S. EPA, or under such other longer schedule as may be approved by EPA.

If U.S. EPA determines that AHPC has made the demonstration set forth in Paragraph (3.2-a) above and there have been no exceedances of groundwater performance standards during the performance monitoring period (or if AHPC has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA), AHPC will no longer be required to operate the groundwater pump and treat system, the groundwater sampling and reporting program will no longer be required, and AHPC will have satisfied all groundwater remediation requirements of the ACO.

### **3.4 AIR SPARGING SYSTEM**

This section of the SW discusses the following aspects of the ACO groundwater air sparging system:

- Groundwater Air Sparging Completion
- Groundwater Air Sparging Reporting

#### **3.4.1 Groundwater Air Sparging Completion**

Groundwater air sparging will be conducted in Area 3-East shown on Figure 1. Sampling of the air sparging assessment well AS-1 will be conducted as part of the groundwater monitoring program described in Section 3.2. The groundwater air sparging system will no longer be required to operate and the groundwater sampling of well AS-1 will no longer be required based on the following process:

- a. The groundwater air sparging system will no longer be required to operate once the groundwater monitoring program sampling data show that no groundwater performance standards (see 3.2-b above) were exceeded for the air sparging assessment well AS-1 during two consecutive sampling events. Within 30 days of the validation of this data AHPC will submit the validated data in a report to the U.S. EPA (see 3.4.2 below) and enter a performance monitoring period (see 3.4.1-c below).
- b. If five years after entering the ACO, groundwater performance standards are not met in well AS-1, the air sparging system has operated in accordance with the Operation and Maintenance Plan, and the concentrations have reached steady-state levels (i.e., the groundwater concentrations remain constant within  $\pm 10\%$  over a 1-year period, or as agreed upon by U.S. EPA and AHPC), AHPC has the option at any time to reevaluate the relevant points of compliance, the groundwater performance standards (U.S. EPA, 1988, and/or other applicable guidance in effect at the time) which have not been met and/or evaluate alternative corrective measures (U.S. EPA, 1993, and/or other applicable guidance in effect at the time) for the air sparging area; and submit a document to the U.S. EPA proposing new groundwater performance standards and/or alternative corrective measures as necessary to protect human health and the environment. The new groundwater performance standards based on steady-state conditions shall be agreed upon by U.S. EPA and AHPC.
- c. The air sparging performance-monitoring period will be started after the air sparging system is no longer required to operate (see 3.4.1-a). The performance-monitoring period will consist of quarterly groundwater sampling of the assessment well AS-1 (see 3.2-b) for 2 years. At the conclusion of the performance monitoring period, and within 30 days of the validation of this data, AHPC will submit the validated data in a report to U.S. EPA (see 3.4.2).
- d. If one or more of the groundwater performance standards (listed in 3.2-b) is exceeded in well AS-1 during the performance monitoring period (see 3.4.1-c), AHPC will initiate a discussion with the U.S. EPA to determine an appropriate course of action. This course of action may include additional operation of the groundwater air sparging system.

### 3.4.2 Groundwater Air Sparging Reporting

Within 30 days after AHPC determines, based on validated site data, that the groundwater performance standards have been attained in well AS-1, both prior to (see 3.4.1-a), and at the completion of (see 3.4.1-c), the performance monitoring period, AHPC shall submit a written report to U.S. EPA for review and approval. In the report submitted after completion of the performance monitoring period, a registered professional engineer or geologist and AHPC's Project Manager shall state in the report that the groundwater performance standards have been attained in well AS-1 in full satisfaction of requirements of the Order, to the best of their knowledge, or that AHPC has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA.

The report submitted prior to the commencement of the performance monitoring period shall include a description of the performance-monitoring to be performed to ensure that groundwater performance standards continue to be attained after the air sparging system is no longer required to operate. AHPC shall revise and submit both reports in response to U.S. EPA's written comments, if any, within 30 days of receipt of the comments from U.S. EPA, or under such other longer schedule as may be approved by U.S. EPA.

If U.S. EPA determines that AHPC has made the demonstration set forth in Paragraph (3.4.1-a) above and there have been no exceedances of groundwater performance standards during the performance monitoring period (or if AHPC has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA), AHPC will no longer be required to operate the groundwater air sparging system, the groundwater sampling of AS-1 and reporting will no longer be required, and AHPC will have satisfied the groundwater air sparging remediation requirements of the ACO.

## 4. SOIL REMEDIATION

This section of the SW discusses the following aspects of the ACO soil remediation:

- Soil Corrective Measures Alternatives
- Soil Monitoring Program
- Soil Remediation Reporting

### 4.1 SOIL CORRECTIVE MEASURE ALTERNATIVES

The soil remediation program consists of conducting SVE in three areas outside the building (CMS Alternative OS-3) and one area inside the building (CMS Alternative IS-2). In order to maintain the soil remediation schedule, the SVE system will be operated continuously except for periodic maintenance activities, which will be minimized. The operation and maintenance procedures for the soil remediation system will be provided in the Operation and Maintenance Plan. The soil remediation system operations will be recorded either daily by World Kitchen on-site maintenance personnel, or automatically with electronic data loggers. The operation and maintenance schedule and total operation time will be documented in the periodic reports. The soil remediation monitoring will consist of monitoring air from the SVE vents and collecting confirmation soil samples from the SVE remediation areas. During the SVE system operation, air samples and flow measurements will be collected from the SVE system air effluent in each of the remediation areas. The air samples will be analyzed for the four target constituents (listed in 4.2-b). These data will be used to evaluate system performance, maintenance, optimization, and termination.

### 4.2 SOIL MONITORING PROGRAM

Soil Remediation Completion: The soil remediation in any given area will be complete and will no longer be required to operate based on the following process:

- a. Each of the SVE systems will operate until it reaches a negligible removal rate, which is defined as: the extracted air target-compound removal rate is less than 0.2 lb/day for two consecutive months or the removal rate remains within a narrowly defined range (AHPC



intends to provide a specific proposal to U.S. EPA to define this range) for four consecutive months. At this point, AHPC will undertake soil confirmation sampling.

- b. The soil confirmation sampling will consist of advancing three soil borings spaced evenly throughout each SVE remediation area and collecting one soil sample from the midpoint of each soil column. The midpoint of the soil column is defined as halfway between ground surface and the bottom of the deepest SVE well in that area. PID screening will also be used for additional sample selection during the soil confirmation sampling effort. An additional sample will also be collected at the maximum PID reading depth. The samples will be analyzed for the following ACO soil performance standards:

- 1,1-dichloroethylene = 120 µg/Kg
- 1,2-dichloroethylene = 1500 µg/Kg
- 1,1,1-trichloroethane = 6,140 µg/Kg
- trichloroethylene = 230 µg/Kg

If during soil confirmation sampling, soil data from one or more of the samples are questioned, AHPC will initiate a discussion with EPA to determine an appropriate course of action. This course of action may include resampling of one or more of the sample locations and resubmitting the new data in replacement of the previously collected data.

- c. If soil confirmation sampling does not confirm that the soil performance standards (see 4.2-b) have been met, then AHPC has the option to reevaluate the relevant points of compliance, the soil performance standards, and/or to evaluate other corrective measures in those areas where the designated soil performance standards have not been met, and submit a document to the U.S. EPA proposing new soil performance standards and/or alternative corrective measures as necessary to protect human health and the environment.
- d. The soil remediation will be complete in any of the SVE remediation areas where the soil confirmation sampling results are below all of the designated performance standards (see 4.2-b), or as otherwise agreed upon by U.S. EPA and AHPC pursuant to Paragraph 4.2.c.
- e. Soil remediation will be continued in any of the SVE remediation areas where one or more of the soil confirmation sampling results are above the designated performance

standards (see 4.2-b). In these areas, SVE remediation will be continued with subsequent soil confirmation sampling (see 4.2-b) until the sample results in the area are all below the performance standards or until agreed otherwise upon by U.S. EPA and AHPC.

#### **4.3 SOIL REMEDIATION REPORTING**

Within 30 days after determining that the soil remediation is complete, AHPC shall submit a written report to U.S. EPA for review and approval. A registered professional engineer or geologist and AHPC's Project Manager shall state in the report that the soil performance standards were attained in all SVE areas in full satisfaction of requirements of the Order, to the best of their knowledge, or that AHPC has attained alternative soil performance standards and/or alternative corrective measures approved by U.S. EPA. AHPC shall revise and submit the report in response to U.S. EPA's written comments, if any, within 30 days of receipt of the comments from U.S. EPA, or under such longer schedule as may be approved by U.S. EPA.

If U.S. EPA determines that AHPC has made the demonstration set forth in Paragraph (4.2-b) and all soil confirmation samples are below the soil performance standards (or if AHPC has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA), AHPC will no longer be required to conduct soil remediation, sampling, maintenance, and reporting activities required under the ACO and AHPC will have satisfied all soil remediation requirements of the ACO.

## 5. REFERENCES

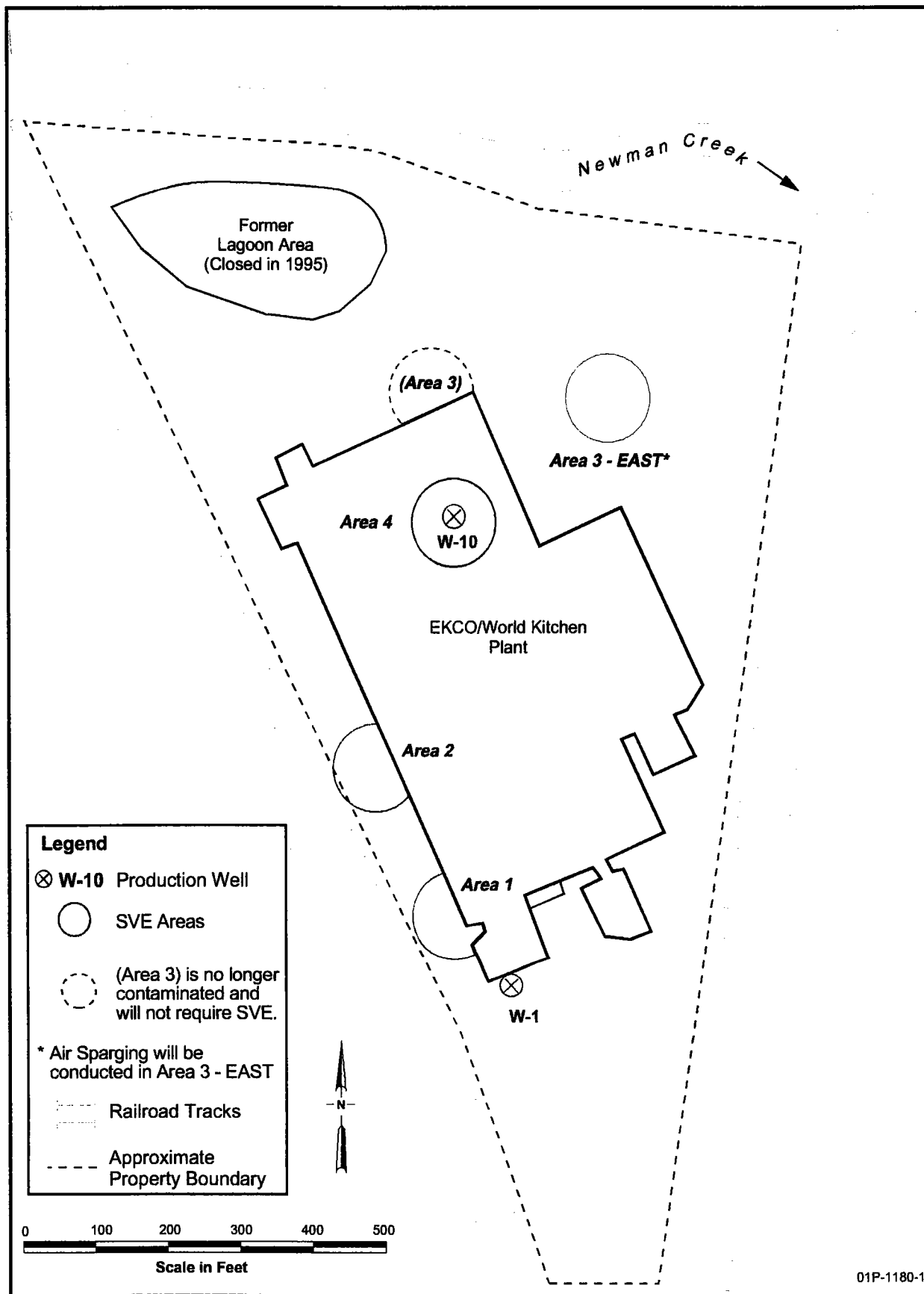
- U.S. EPA. 1988. *Alternate Concentration Limit Guidance*. Office of Solid Waste and Emergency Response. Washington, D.C. EPA/530-SW-87-031.
- U.S. EPA. 1993. *Guidance for Evaluating the Technical Impracticability of Ground-Water Restoration*. Office of Solid Waste and Emergency Response. Washington, D.C.
- U.S. EPA. 1998. *Technical Protocol for Evaluating Natural Attenuation of Chlorinated Solvents in Ground Water*. Office of Research and Development, Washington, D.C.
- U.S. EPA. 1998. *RCRA Quality Assurance Project Plan (QAPP) Instructions*. Region 5. Waste, Pesticides and Toxics Division. Chicago, Illinois.
- U.S. EPA, 2000a. *Use of Institutional Controls in the RCRA Corrective Action Program*. Region 5. Waste, Pesticides and Toxics Division. Chicago, Illinois.
- U.S. EPA. 2000b. *Handbook of Groundwater Policies for RCRA Corrective Action*. Office of Solid Waste and Emergency Response. Washington, D.C. EPA 530-D-00-001.
- WESTON. 1993. "Final Corrective Measures Study, EKCO Housewares, Inc., Massillon, Ohio."
- WESTON. 1994. "Addendum to the Corrective Measures Study, EKCO Housewares, Inc., Massillon, Ohio."
- WESTON. 2001. "Final Soil Investigation Report for the EKCO World Kitchen Facility, Massillon, Ohio."

**Table 1**  
**Administrative Consent Order Schedule**  
**EKCO/World Kitchen, Massillon, Ohio Facility**

<b>Event</b>	<b>Due Date*</b>
American Home Products Corporation and U.S. EPA shall each designate a Project Manager and notify each other in writing.	14 days
Submit a Site Health and Safety Plan.	45 days
Submit a Community Relations Plan.	45days
Submit an Institutional Control Plan.	45 days
Submit a Project Management Plan	60 days
Submit a Data Management Plan	60 days
Submit a Sampling and Analysis Plan.	60 days
Submit a Quality Assurance Project Plan.	60 days
Submit first Progress Report and resubmit quarterly thereafter.**	60 days
Begin groundwater monitoring program quarterly for 5 years and semi-annually thereafter.**	90 days
Submit a Design Report for implementing IS-2, OS-3, and GW-6.	90 days
Begin operation of IS-2, OS-3, and GW-6.	12 months
Submit a Construction Completion Report and Operation and Maintenance Plan for IS-2, OS-3, and GW-6	15 months

\* Due date is the time beyond the effective date of the Administrative Consent Order

\*\* Or other schedule agreed upon by U.S. EPA and EKCO American Home Products Corporation



---

**APPENDIX A**

**MONITOR WELL SELECTION RATIONALE**

---

**EKCO/World Kitchen, Massillon, Ohio, Facility  
U.S. EPA I.D. No. OHD 045-205-424**

This document provides the rationale for the selection of the compliance, assessment, and background groundwater monitor wells described in the Scope of Work (SW). The SW sets forth the work to be conducted to implement the groundwater and soil corrective measures alternatives discussed in Section VI of the ACO.

### **Groundwater Remediation Corrective Measure Alternative**

The groundwater remediation approach selected from the Corrective Measures Study (WESTON, 1993 and 1994) is Alternative GW-6, which consists of pulse pumping of groundwater from wells W-1 and W-10 with treatment via air stripping, and air sparging in soil vapor extraction Area 3-East. The locations of recovery/production wells W-1 and W-10, and the air sparging area (Area 3-East) are shown in the attached Figure 1.

Paragraph 11 in the Administrative Consent Order (ACO) requires the implementation of a groundwater monitoring program to monitor the shallow and bedrock aquifers at the facility. The goals of this program are to monitor the progress of groundwater remediation and to establish the basis for determining the completion of the program.

The wells to be sampled during the groundwater monitoring program are classified into three categories: compliance wells, assessment wells, and background wells. Compliance wells will be used as "compliance points", which are defined in the RCRA program as follows (U.S. EPA, 2000): *"the point of compliance for groundwater, in the context of RCRA corrective action, represents where the facility should meet groundwater cleanup levels within a contaminated aquifer at the conclusion of the final remedy (i.e., the facility has achieved its final remediation goals)"*. The compliance wells will be used for comparison to the groundwater performance standards to determine if remediation is complete. Assessment wells will be used to assess groundwater remediation system progress and to determine if changes are needed in recovery well pumping rates, air sparging system and pulse pumping schedules. The assessment wells will not be used to determine compliance with groundwater performance standards except as noted in the SW. The background well will be used to monitor background (upgradient) conditions in the shallow water-bearing unit. The following compliance, assessment, and background wells will be included in the groundwater monitoring program:

- Shallow zone: well L-3 (background), wells L-5 and AS-1 (assessment), well S-4 (compliance).
- Bedrock zone: wells R-2, R-3, R-4, and R-5 (compliance).
- Bedrock zone production/recovery wells: wells W-1 and W-10 (assessment).

All compliance wells, assessment wells and the background well will be sampled quarterly for the first 5 years. However, AHPC reserves the right to petition U.S. EPA to reduce the number of wells sampled, the frequency of sampling, and/or the constituents being sampled for during that period or any time thereafter. At a minimum, after 5 years of quarterly monitoring, the groundwater sampling schedule for all wells will be reduced to semi-annual. The locations of the proposed groundwater monitoring program compliance, assessment, and background wells are shown on the attached Figure 2; and the respective completion depths and groundwater flow directions for these wells are shown on the attached Figure 3. The rationale for the selection of these wells is provided below.

### **Compliance Wells**

Compliance wells will be used for determining when groundwater remediation is complete and will consist of bedrock wells R-2, R-3, R-4, and R-5; and shallow well S-4. The four bedrock compliance wells are the best available on-site wells for compliance purposes based on the following: they are completed at the appropriate depths in the appropriate water bearing zone; there is abundant historical groundwater quality data available from them that can be used for evaluating contaminant trends; and they are located, during non-pumping conditions, in the downgradient directions from the main process building (Figure 2) where the on-site sources of contamination are located. All on-site bedrock monitor wells were used as compliance wells with the exception of well R-1. This well was not included as a compliance monitoring well because there were no concentrations detected in it above the groundwater performance standard when it was last sampled in February 1995, and it is located near compliance well R-2.

Two of the bedrock wells (R-2 and R-3) are completed to a depth of approximately 110 to 120 feet below ground surface (ft bgs), and R-4 is completed from approximately 110 to 175 ft bgs. All of these monitor wells are completed in the sandstone bedrock (BR) water-bearing zone (WBZ). Well R-5 is completed in the shallow bedrock from approximately 50 to 60 ft bgs. This



well is in the optimal location to monitor potential bedrock impacts of the former wastewater lagoon.

The BR WBZ is the primary water-bearing zone at the site and is capable of producing significant amounts of water. The two active onsite recovery/production wells, which are completed in the same bedrock interval, are each capable of pumping over 300 gallons per minute (gpm). The recovery/production well pumps are installed at approximately 125 ft bgs; a depth which is similar to the screened intervals of the bedrock compliance wells R-2, R-3, and R-4. The geologic unit that the recovery/production and the bedrock compliance wells are completed in is a 50-ft thick sandstone referred to as the Sharon Sandstone which is a member of the Pennsylvanian Age Pottsville Group. The Sharon Sandstone exists onsite at a depth of approximately 100 to 150 ft bgs; therefore, the completion intervals of the compliance wells R-2, and R-3 and the pump depth of the production/recovery wells are in the approximate center of the Sharon Sandstone water-bearing zone.

There is abundant historical data available from all four of the bedrock compliance wells. Groundwater samples from these wells have been collected and analyzed at least 30 times since the wells were installed between 1984 and 1991, providing groundwater analytical results dating back to the beginning of the environmental investigation at the facility. Since the recovery/production wells commenced pumping in the 1940's, the groundwater flow direction has been toward the facility and toward the pumping centers surrounding wells W-1 and W-10, as shown in Figure 3. If the facility recovery/production wells were turned off, the natural groundwater flow direction could potentially be to the north, east, or south. Groundwater flow would not be to the west due to the significant rise in elevation in that direction. As shown in Figures 2 and 3, the four bedrock compliance wells are located in the potential non-pumping downgradient direction from the main building.

The shallow (SH) WBZ compliance well, S-4, is also in the natural non-pumping downgradient direction from the main process building and the planned air sparging area.

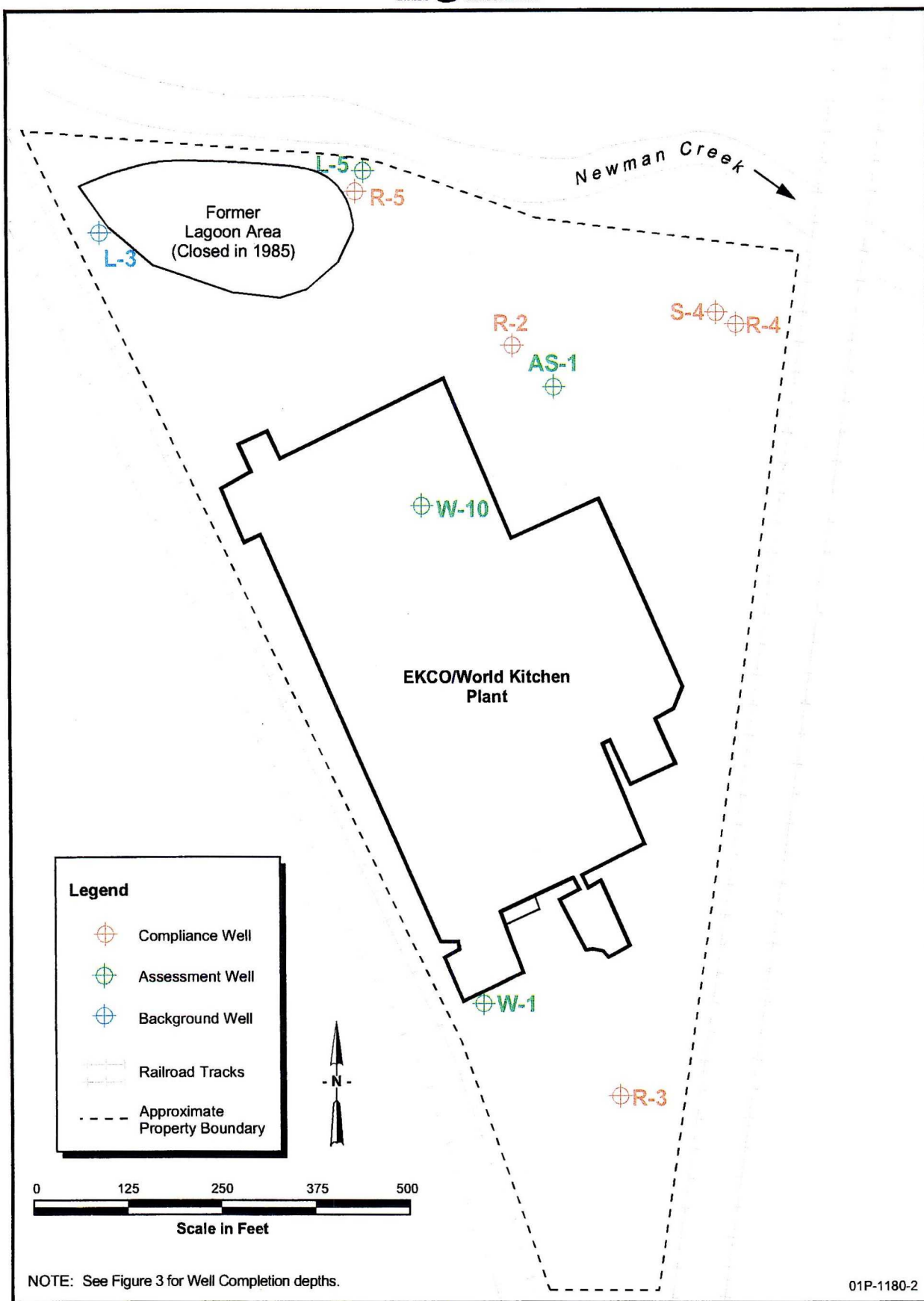
## **Assessment Wells**

The assessment wells will be used to evaluate the progress of the groundwater remediation system and to determine if changes are needed in the recovery well pumping rates, air sparging system, and the pulse pumping schedules. The assessment wells will not be used to determine completion of remediation except as noted above. There are four assessment wells in the groundwater monitoring program, two in the shallow unit (L-5 and AS-1) and two in the bedrock unit (W-1 and W-10). Groundwater quality, geochemistry, and hydraulic information will be collected from the assessment wells to monitor remediation performance.

The shallow well, L-5, is in an optimal location to assess the interaction between the shallow groundwater and the adjacent Newman Creek, and for determining what effect, if any, the pumping at wells W-1 and W-10 may have on the surface water/groundwater hydraulics. Well AS-1 will be installed as part of the air sparging system in Area-3 East and will be used to assess the air sparging system performance and, if necessary, to adjust air injection and extraction flow rates. The bedrock recovery/production wells W-1 and W-10 are the primary component of the groundwater remediation system. Data collected from these wells will be used to assess system performance and, if necessary, to adjust pumping rates, pump depths, and pulse pumping cycles.

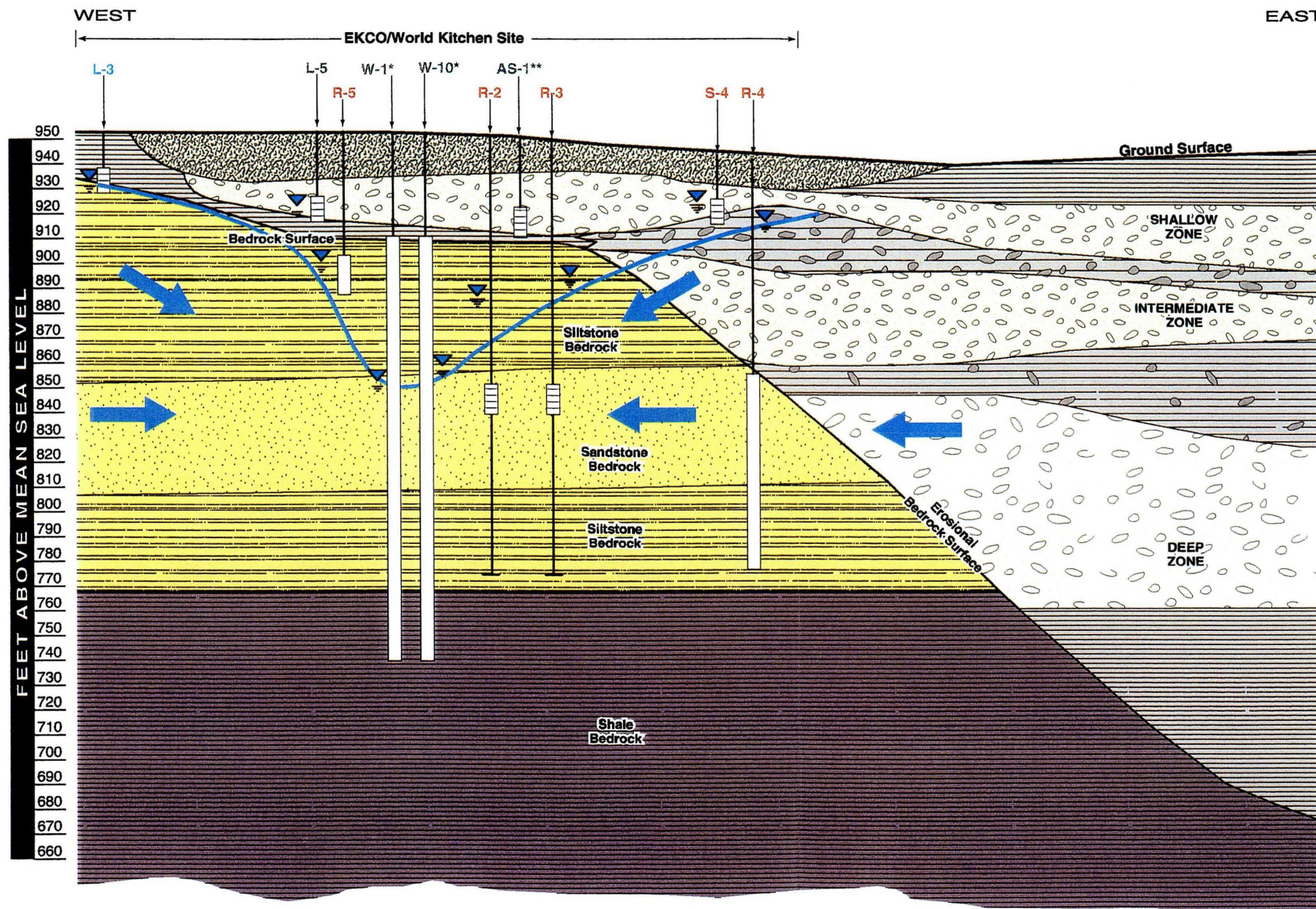
## **Background Well**

The groundwater monitoring program will also monitor upgradient background conditions. The only site monitor well that is located in the natural non-pumping upgradient direction is well L-3. This well will be used to monitor overburden and bedrock background conditions at the site. Due to the high bedrock elevation in that area of the site, the shallow well, L-3, was installed into the top of the shallow bedrock in order to encounter sufficient water.



**FIGURE 2 GROUNDWATER MONITORING PROGRAM BACKGROUND, ASSESSMENT, AND COMPLIANCE WELLS**





## LEGEND

- Fill
- Silt or Clay
- Fine Sand and Gravel
- Clay, Sand, Gravel
- Clay or Silt with Gravel
- Coarse Sand, Gravel, Cobbles
- Argillaceous Sandstone and Shale
- Sandstone-Little or No Fines
- Shale
- Water Level (Measured February 2001)
- Groundwater Flow Direction
- Bedrock Groundwater Elevation
- Screened Interval
- Open Borehole Interval
- Original Well Depth
- R-2 Compliance Well
- W-1 Assessment Well
- L-3 Background Well

NOTES:  
See Figure 2 for well locations.

\* Wells W-1 and W-10 pump at a total flow rate of 400 to 600 gpm.

\*\* Wells W-1 and W-10 pump at a total flow rate of 400 to 600 gpm.

0 250  
Approximate Scale in Feet

**FIGURE 3**  
**GROUNDWATER**  
**MONITORING PROGRAM**  
**WELL COMPLETION SCHEMATIC**



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

IN THE MATTER OF:

World Kitchen, Inc.  
359 State Avenue, Ext. N.W.  
Massillon, Ohio 44648-0560

EPA ID#: OHD 045 205 424

and

American Home Products Corporation  
Five Giralda Farms  
Madison, New Jersey 07940

RESPONDENTS.

) ADMINISTRATIVE ORDER ON CONSENT

) U.S. EPA Docket No: RCRA-05- 2002 - 0010

) Proceeding under Section 3008(h) of the  
) Resource Conservation and Recovery Act,  
) as amended, 42 U.S.C. § 6928(h).

**I. JURISDICTION**

1. The Administrator of the United States Environmental Protection Agency ("U.S. EPA") is issuing this Administrative Order on Consent ("Order") to World Kitchen, Inc. ("WKI") and American Home Products Corporation ("AHP") under Section 3008(h) of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6928(h). The Administrator has delegated the authority to issue orders under Section 3008(h) of RCRA to the Chief, Enforcement and Compliance Assurance Branch; Waste, Pesticides and Toxics Division; U.S. EPA Region 5.

2. WKI owns and operates a facility that manufactures cookware at 359 State Avenue, Ext. N.W., Massillon, Ohio (the "facility"). The property on which the facility is located is triangular in shape and occupies approximately 13 acres of land. It is bordered to the north by Newman Creek, on the west by the Penn Central Railroad and on the east by the Baltimore and Ohio Railroad. The facility began operations in 1945 and currently manufactures pressed and coated non-stick bakeware. The facility was previously owned and operated by EKCO Housewares, Inc. ("EKCO"). AHP was EKCO's corporate parent.

3. WKI and AHP agree not to contest U.S. EPA's jurisdiction to issue this Order and/or to enforce its terms.

4. WKI and AHP waive any rights to request a hearing on this matter pursuant to Section 3008(b) of RCRA and 40 C.F.R. Part 24, and consent to the issuance of this Order

02 AUG 22 P1:48

RECEIVED  
REGIONAL HEARINGS  
DIVISION

without a hearing under Section 3008(b) of RCRA as a Consent Order issued pursuant to Section 3008(h) of RCRA.

5. WKI and AHP do not admit the validity of or responsibility for any factual or legal conclusions or determination stated herein, and do not admit any violations of, or liability under, federal, state, local or common law, or any other liability of any kind. WKI and AHP do not admit the existence of any actual or potential danger, hazard, or harm to any person, property, political entity or agency, the environment, or the public health or welfare. WKI and AHP agree that this Order shall be admissible as evidence in any proceeding brought by U.S. EPA to enforce this Order or to enforce the implementation of any corrective measure deemed necessary by U.S. EPA under the terms of the Order. However, all three parties agree that this Order shall not constitute or be construed as an admission of any kind, or be admissible as evidence of an admission of any kind, on the part of WKI or AHP, in whole or in part, in any other administrative or judicial proceeding.

## II. DEFINITIONS

6. This Order incorporates the definitions in RCRA, 42 U.S.C. §§ 6901 - 6922k, and the regulations promulgated under RCRA unless otherwise specified.

7. "Day" means a calendar day unless expressly stated to be a business day. "Business Day" means a day other than a Saturday, Sunday or Federal Holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal Holiday, the period will run until the end of the next business day.

8. "Facility" means all contiguous property as described in paragraph 2, above, under the control of the owner and/or operator.

9. "U.S. EPA" means the United States Environmental Protection Agency and any successor departments or agencies of the United States.

## III. PARTIES BOUND

10. This Order applies to and binds U.S. EPA, WKI and AHP and their agents, successors, assigns, trustees, receivers, and all persons, including but not limited to contractors and consultants, acting on behalf of WKI or AHP. WKI or AHP will be responsible for and liable for any violations of provisions of this Order to which they are subject, regardless of their use of employees, agents, contractors, or consultants to perform work required by this Order.

11. No change in ownership or corporate or partnership status relating to the facility will alter the obligations of WKI or AHP under this Order; provided however, that with the express prior written consent of U.S. EPA, WKI or AHP may assign one or more of their obligations under this Order. Any conveyance of title, easement, or other interest in the facility, or a portion

of the facility, will not affect WKI's or AHP's obligations under this Order. WKI will give written notice of this Order to any successor in interest prior to transferring ownership or operation of the facility or a portion thereof and will notify U.S. EPA and AHP in writing within five days of the transfer. This written notice will describe how WKI has assured that, despite the transfer, all institutional controls required now or in the future for the facility will be implemented and maintained and all other obligations of WKI under this Order fulfilled. WKI shall condition any transfer of ownership or operation of the facility or any portion thereof, and any lease of any portion of the facility upon which activities called for under this Order may be conducted, upon the agreement of any such transferee or lessee to comply with the obligations to which WKI is subject under this Order. No such agreement shall alter WKI's obligations under this Order. This paragraph will not apply if U.S. EPA, WKI and AHP agree that this Order has terminated as to the facility or any relevant portion of the facility, or if this Order has otherwise terminated pursuant to Section XVII of this Order.

#### IV. DETERMINATIONS

12. After consideration of the Administrative Record, the Chief, Enforcement and Compliance Assurance Branch; Waste, Pesticides and Toxics Division; U.S. EPA Region 5 has made the following conclusions of law and determinations:

- a. WKI and AHP are "persons" within the meaning of Section 1004(15) of RCRA.
- b. WKI is the owner or operator of a facility that has operated under interim status subject to Section 3005(e) of RCRA.
- c. Certain wastes and constituents found at the facility are hazardous wastes and/or hazardous constituents pursuant to Sections 1004(5), 3001 of RCRA and 40 C.F.R. Part 261.
- d. There is or has been a release of hazardous wastes or hazardous constituents into the environment from the facility.
- e. The actions required by this Order are necessary to protect human health or the environment.

#### V. PROJECT MANAGER

13. U.S. EPA, WKI and AHP must each designate a Project Manager and notify each other in writing of the Project Manager selected within 14 days of the effective date of this Order. Each Project Manager will be responsible for overseeing the implementation of this Project. The parties must provide prompt written notice whenever they change Project Managers.

## VI. WORK TO BE PERFORMED

14. Pursuant to Section 3008(h) of RCRA, WKI and AHP agree to and are hereby ordered to perform the actions specified in this section, in the manner and by the dates specified herein. WKI and AHP represent that they have the technical and financial ability to carry out corrective action at the facility. WKI and AHP must perform the work undertaken pursuant to this Order in compliance with RCRA and other applicable federal and state laws and their implementing regulations, and consistent with all relevant portions of U.S. EPA guidance documents applicable to the work to be performed under this Order. This guidance potentially includes, but is not limited to, the Documentation of Environmental Indicator Determination Guidance, Use of Institutional Controls in the RCRA Corrective Action Program, and relevant portions of U.S. EPA's risk assessment guidance. All work undertaken pursuant to this Order shall be performed in a manner consistent with the Scope of Work in Attachment 2 to this Order and incorporated herein by reference.

15. WKI and AHP must implement the remedy selected in U.S. EPA's April 23, 2001 Final Decision in accordance with the Scope of Work in Attachment 2 and as identified below. The components of the selected remedy include:

- a. Air sparging of shallow groundwater and collection using soil vapor extraction (to be implemented by AHP);
- b. Extraction of contaminated groundwater in the bedrock aquifer and treatment by air stripping (to be implemented by AHP);
- c. Implementation of a groundwater monitoring program to monitor the shallow and bedrock aquifers at the facility (to be implemented by AHP);
- d. Well permit restrictions (to be implemented by WKI);
- e. Institutional controls to restrict the facility to non-residential use only (to be implemented by WKI); and
- f. Soil vapor extraction to treat contaminated soil (to be implemented by AHP).

16. A detailed schedule to construct and implement the selected remedy required by paragraph 15a., b., c., and f., and to submit a Final Remedy Construction Completion Report is set forth in the attached Scope of Work.

17. Consistent with the attached Scope of Work, AHP must complete the items identified in paragraph 15.a., b., and c., above, including but not limited to, demonstrating that



the groundwater performance standards<sup>1</sup> or U.S. EPA-approved alternative corrective measures for groundwater have been met.

18. Consistent with the attached Scope of Work, AHP must complete the item identified in paragraph 15.f., above, including but not limited to, demonstrating that the soil performance standards for contaminated soil subject to soil vapor extraction<sup>2</sup> or U.S. EPA-approved alternative corrective measures for contaminated soil are met.

19. After AHP determines that groundwater performance standards or U.S. EPA-approved alternative corrective measures for groundwater have been attained at the facility, AHP must submit written reports to U.S. EPA for review and approval in accordance with the attached Scope of Work. After AHP determines that soil performance standards for contaminated soil subject to soil vapor extraction or U.S. EPA-approved alternative corrective measures for contaminated soil have been attained at the facility, AHP must submit written reports to U.S. EPA for review and approval in accordance with the attached Scope of Work.

20. AHP must continue to stabilize the migration of contaminated groundwater. This includes maintaining any corrective measures necessary to stabilize the migration of contaminated groundwater. Groundwater monitoring described in the attached Scope of Work must be conducted to confirm that any contaminated groundwater above the groundwater performance standards in Table 4 of Attachment 1 remains within the original area of contamination. U.S. EPA will consider AHP in compliance with the requirements of this paragraph if groundwater elevation contour maps of the water-bearing units at the facility, as prepared by AHP using groundwater monitoring data collected in accordance with the Scope of Work, show that groundwater continues to flow inward toward production wells W-1 and W-10.

21. WKI must not allow water from any existing wells at the facility to be used for drinking, bathing, washing, or other human contact purposes or for livestock, farming or irrigation until the groundwater performance standards specified in Table 4 of Attachment 1 to this Order are achieved. WKI must also not allow the installation of any new water wells for drinking, bathing, washing, or other human contact purposes or for livestock, farming or irrigation on this property until the groundwater performance standards specified in Table 4 of Attachment 1 to this Order are achieved.

22. WKI must not allow any residential activities at the facility for as long as soils at the facility remain contaminated above the residential soil performance standards for human

---

<sup>1</sup> The groundwater performance standards for contaminants of concern in groundwater at and from the facility are found in Table 4 of Attachment 1 to this Order.

<sup>2</sup> The soil performance standards for protecting groundwater at the facility are found in Table 1 of Attachment 1 to this Order.

exposure.<sup>3</sup> The term "residential activities" shall include, but not be limited to, the following:

- a. Single and multi-family dwelling and rental units;
- b. Day care centers and preschools;
- c. Hotels and motels;
- d. Educational (except as a part of industrial activities at the facility) and religious facilities;
- e. Restaurants and other food and beverage services (except as a part of industrial activities at the facility);
- f. Entertainment and recreational facilities (except as a part of industrial activities at the facility);
- g. Hospitals and other extended care medical facilities (except as a part of industrial activities at the facility); and
- h. Transient or other residential facilities.

The term "industrial activities" shall include manufacturing, processing operations and office and warehouse use including, but not limited to, production, storage and sales of durable goods and other non-food chain products and parking/driveway use.

23. WKI must restrict activities at the facility that may reasonably result in human exposure to soil at unacceptable risk levels.<sup>4</sup> The point of compliance for restricting activities is at any point where direct contact exposure to soil may reasonably occur.

24. If WKI cleans up contaminated soil at the facility to the residential soil performance standards for human exposure and demonstrates to U.S. EPA that these standards have been achieved, WKI will no longer be bound by the restrictions in paragraphs 22 and 23.

25. WKI must restrict the use of the facility for any activities that may interfere with a remedial action, operation and maintenance, monitoring, or other measures necessary to assure

---

<sup>3</sup> The residential soil performance standards for human exposure to contaminants of concern at the facility are found in Table 3 of Attachment 1 to this Order.

<sup>4</sup> The industrial soil performance standards for human exposure to contaminants of concern at the facility are found in Table 2 of Attachment 1 to this Order.

the effectiveness and integrity of the remedy to be implemented pursuant to this Order. Such restrictions include, but are not limited to:

- a. Pumping of groundwater that impacts the effectiveness of the on-site pump-and-treat system in maintaining an inward groundwater gradient from the facility boundary to the two active industrial water wells. WKI must also notify adjacent landowners, and affected state and local governments of the pump-and-treat groundwater remedy at its facility. WKI must also use due diligence to detect any current and/or future off-site groundwater pumping activities that may (i) impact AHP's ability to prevent off-site migration of contaminated groundwater from the facility or (ii) impact the inward groundwater gradient from the facility boundary toward its two pumping industrial water wells and promptly notify U.S. EPA, AHP and appropriate state and local governments if it becomes aware of such activities. Due diligence shall include, but is not limited to, a semi-annual review of available State and local records pertaining to (i) releases of hazardous substances, pollutants, or contaminants to the environment, and (ii) groundwater well installation permits, and construction project de-watering permits, and increases in well pumping rates associated with activities within a 0.50-mile radius of the facility. WKI shall provide AHP written notification of the results of its review of these records by January 15 and July 15 of each year during which this Order is in effect, unless U.S. EPA and AHP agree to an alternate schedule; and
- b. The installation, construction, removal, or use of any wells or the excavation of any soil within areas exceeding soil cleanup goals as designated by U.S. EPA in its 12/13/2000 letter to EKCO except as approved by U.S. EPA as consistent with this Order.

26. WKI must record with the Office of Recorder, Stark County, Ohio, a deed notice in the chain of title for the facility which, at a minimum, includes the restrictions specified in paragraphs 21 through 23 and paragraph 25 of the Order. Within 45 days of the effective date of this Order, WKI must submit the notice to U.S. EPA for review and approval. Within 15 days of U.S. EPA's approval, WKI must record the deed notice. Within 30 days of recording the deed notice, WKI must provide U.S. EPA with a certified copy of the original recorded notice.

27. Within 90 days of the effective date of this Order, AHP must submit to U.S. EPA for review and approval an estimate of the cost for AHP to assure completion of the work to be performed pursuant to this Order. Within 30 days of U.S. EPA's approval of the cost estimate, AHP must provide financial security, in the amount of the cost estimate, in one of the forms permitted under 40 C.F.R. § 264.145 (modified to replace the terms "post-closure" and "closure" with "corrective action" and referencing this Order, as approved by U.S. EPA). After U.S. EPA approval of the Final Remedy Construction Completion Report, AHP may submit to U.S. EPA for review and approval a revised estimate of the cost for AHP to assure completion of the

remaining work to be performed pursuant to this Order. Upon approval of the revised cost estimate by U.S. EPA, AHP may reduce the amount of financial security to the amount of the revised cost estimate approved by U.S. EPA.

28. Reporting and other requirements:

- a. AHP and WKI must establish a publicly accessible repository for information regarding site activities and conduct public outreach and involvement activities.
- b. AHP must provide quarterly progress reports to U.S. EPA by the fifteenth day of the month after the end of each quarter until this Order has been terminated unless otherwise agreed by U.S. EPA. The report must list work performed during the reporting period, as well as data collected and problems encountered during the reporting period, the project schedule, and the percent of the project completed.
- c. The parties will communicate frequently and in good faith to assure successful completion of the requirements of this Order, and will meet on at least a semi-annual basis to discuss the work proposed and performed under this Order.
- d. AHP must provide a Final Remedy Construction Completion Report documenting all work that AHP has performed pursuant to the schedule for construction and implementation of the selected remedy. A registered professional engineer and AHP's Project Manager shall state in the report that the selected remedy has been constructed and implemented in accordance with the design and specifications, to the best of their knowledge.
- e. For ongoing monitoring and operation and maintenance after construction of the selected remedy, AHP must include an operations and maintenance plan in the Final Remedy Construction Completion Report. By the dates specified by U.S. EPA, AHP must revise and resubmit the report and plan in response to U.S. EPA's written comments, if any, consistent with the attached Scope of Work. Upon U.S. EPA's written approval, AHP must implement the approved operation and maintenance plan according to the schedule and terms of the plan.
- f. All sampling and analysis conducted under this Order must be performed in accordance with the Region 5 RCRA Quality Assurance Project Plan Policy (April 1998) as appropriate for the facility, and be sufficient to identify and characterize the nature and extent of all releases as required by this Order. U.S. EPA may audit laboratories AHP selects or require AHP to purchase and have analyzed a reasonable number of performance evaluation samples selected by U.S. EPA which are compounds of concern to demonstrate the quality of the laboratory's analytical data. AHP must notify U.S. EPA in writing at least 14 days before beginning each separate phase of field work performed under this

Order. At the request of U.S. EPA, AHP will provide or allow U.S. EPA or its authorized representative to take split or duplicate samples of all samples AHP collects under this Order.

29. Project Managers can agree in writing to extend, for 90 days or less, any deadline in this Section. However, extensions of greater than 90 days require obtaining approval from the Chief of the Enforcement and Compliance Assurance Branch; Waste, Pesticides and Toxics Division, U.S. EPA Region 5.

30. WKI's obligations to allow AHP to perform the work described in this Order and all attachments hereto shall be as follows:

- a. WKI shall allow AHP, and any and all employees, agents and contractors of AHP, access to the facility, and WKI's records relating to this Order, at all reasonable times and at all places necessary for the purpose of performing all of the tasks and responsibilities set forth in this Order and the attachments hereto and for the purpose of conducting oversight of the same.
- b. WKI shall not contest or otherwise seek to hinder or impede any of the work to be performed by AHP, or any and all employees, agents and contractors of AHP, so long as the activities performed by AHP, or any of its employees, agents, or contractors do not materially interfere with (i) the structural integrity of the facility, or (ii) WKI's day-to-day operations of its facility during the pendency of this Order. Any disagreements concerning actions which may or may not constitute material interference as described above shall be resolved in accordance with the dispute resolution provisions set forth in Section X of this Order.

31. Other than for those acts and obligations for which WKI is responsible under the various provisions of this Order, AHP shall be liable for, and shall be obligated under and for the duration of this Order to do, all acts necessary to fulfill the requirements of this Order.

32. AHP may utilize studies, surveys, data, and reports previously prepared or collected concerning the facility, and may utilize wells and other equipment previously installed at the facility to the extent that such work, studies, surveys, data, wells, and equipment reliably and accurately reflect current conditions at the facility.

## VII. ACCESS

33. Upon reasonable notice, and at reasonable times, U.S. EPA, its contractors, employees, and any designated U.S. EPA representatives may enter and freely move about the facility during the effective dates of this Order for the purpose of reviewing the progress of AHP and WKI in implementing the provisions of this Order by, among other things, interviewing facility personnel and contractors; conducting tests, sampling and monitoring as U.S. EPA deems

necessary; using a camera, sound recording, or other documentary equipment; and verifying the reports and data AHP submits to U.S. EPA. AHP and WKI will permit such persons to inspect and copy all non-privileged photographs and documents, including all sampling and monitoring data, that pertain to work undertaken under this Order and that are within the possession or under the control of AHP, WKI or their contractors or consultants. Upon request, U.S. EPA will provide AHP and WKI split samples of any samples collected by U.S. EPA, or by authorized representatives of U.S. EPA, and copies of all photographs, tapes, videos or other recorded evidence created by U.S. EPA and releaseable under the Freedom of Information Act including all analytical results and any technical data and reports collected or prepared by U.S. EPA.

34. To the extent that work being conducted pursuant to this Order must be done beyond the facility's property boundary, AHP must use its best efforts to obtain the necessary access agreements from the present owner(s) of such property within 30 days after AHP knows of the need for access. Any such access agreement must provide for access by U.S. EPA and its representatives. AHP must submit a copy of any access agreement to U.S. EPA's Project Manager. If it does not obtain agreements for access within 30 days, AHP must notify U.S. EPA in writing within 14 additional days of both the efforts undertaken to obtain access and the failure to obtain access agreements. U.S. EPA may, at its discretion, assist AHP in obtaining access.

35. Nothing in this Section limits or otherwise affects U.S. EPA's right of access and entry under applicable law, including RCRA and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675.

#### VIII. RECORD PRESERVATION

36. AHP and WKI must retain, during the pendency of this Order and for at least six years after the Order terminates, all data and all final documents now in their possession or control or which come into their possession or control which relate to this Order. AHP and WKI must notify U.S. EPA in writing 90 days before destroying any such records, and give U.S. EPA the opportunity to take possession of any non-privileged documents. The notice of AHP and WKI will refer to the effective date, caption, and docket number of this Order and will be addressed to:

Director  
Waste, Pesticides and Toxics Division  
U.S. EPA Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604-3590

AHP and WKI will also promptly give U.S. EPA's Project Manager a copy of the notice.

37. Within 30 days of retaining or employing any agent, consultant, or contractor ("agents") to carry out the terms of this Order, AHP and WKI will enter into an agreement with their respective agents to give AHP and WKI a copy of all data and final non-privileged documents produced under this Order.

38. U.S. EPA, AHP and WKI will not assert any privilege claim concerning any validated data gathered during any investigations or other actions required by this Order.

#### IX. STIPULATED PENALTIES

39. AHP and WKI must pay the stipulated penalties set forth below to the United States for violations of this Order, unless (i) there has been a written modification of a compliance date by U.S. EPA, (ii) U.S. EPA has approved, in writing, AHP's or WKI's written request for an extension of time, (iii) a delay excusable pursuant to Section XI (Force Majeure and Excusable Delay) of this Order has arisen, (iv) payment of stipulated penalties has been excused by the Director of the Waste, Pesticides, and Toxics Division, U.S. EPA, Region 5 pursuant to Section X (Dispute Resolution), or (v) in the exercise of its unreviewable discretion, U.S. EPA has otherwise waived payment of any portion of or all stipulated penalties otherwise owed. AHP and WKI shall be jointly and severally liable for the stipulated penalties in paragraph 39.a. through 39.e.

- a. AHP and/or WKI: For failure to submit progress reports by the dates scheduled in paragraph 28.b., above: \$1,000 per day for the first 14 days and \$2,000 per day thereafter.
- b. AHP and/or WKI: For failure to implement, according to the schedule in the attached Scope of Work, the remedial components described in paragraphs 15a., b., c., and f. and 16: \$3,000 per day for the first 14 days and \$6,000 per day thereafter.
- c. AHP and/or WKI: For failure to submit or revise and submit, the Final Remedy Construction Completion Report and operation and maintenance plan as required and scheduled in paragraphs 16 and 28: \$1,000 per day for the first 14 days and \$2,000 per day thereafter.
- d. AHP and/or WKI: For failure to implement, according to the approved schedule and terms, the approved operation and maintenance plan: \$2,000 per day for the first 14 days and \$4,000 per day thereafter.
- e. AHP and/or WKI: For failure to provide the cost estimate and financial security as required and scheduled in paragraph 27: \$1,000 per day for the first 14 days and \$2,000 per day thereafter.

- f. WKI: For failure to maintain the institutional controls as required in paragraphs 21 through 23 and paragraph 25: \$3,000 per day for the first 14 days and \$6,000 per day thereafter.
- g. WKI: For failure to submit for review or record a deed notice as required by paragraph 26: \$2,000 per day for the first 14 days and \$4,000 per day thereafter.
- h. WKI: For failure to refrain from contesting or otherwise seeking to hinder or impede any of the work to be performed by AHP, or any and all employees, agents, or contractors of AHP in violation of the provisions of paragraph 30.b.: \$2,000 per day for the 14 days and \$4,000 per day thereafter.
- i. WKI: For failure to provide access required by paragraph 30.a.: \$2000 per day for the first 14 days and \$4,000 per day thereafter.

40. Except as otherwise provided in this Order, whether or not AHP or WKI has received notice of a violation, stipulated penalties will begin to accrue on the first day a violation occurs, and will continue to accrue until AHP or WKI complies. Separate stipulated penalties for separate violations of this Order will accrue simultaneously.

41. AHP and WKI must pay any stipulated penalties owed by them to the United States under this Section within 30 days of receiving U.S. EPA's written demand to pay the penalties, unless AHP or WKI invokes the dispute resolution procedures under Section X: Dispute Resolution. A written demand for stipulated penalties will describe the violation and will indicate the amount of penalties due.

42. Interest will begin to accrue on any unpaid stipulated penalty balance beginning 31 days after AHP's and/or WKI's receipt of U.S. EPA's demand letter or, if AHP or WKI invokes the dispute resolution provisions under Section X, AHP and/or WKI must pay interest, if any, according to the dispute resolution decision or agreement. Interest will accrue at the current value of funds rate established by the Secretary of the Treasury. Under 31 U.S.C. § 3717, AHP and/or WKI must pay an additional penalty of six percent per year on any unpaid stipulated penalty balance more than 90 days overdue.

43. AHP and/or WKI must pay all penalties by certified or cashier's check payable to the United States of America, or by wire transfer. Payment shall be remitted to:

U.S. Department of the Treasury  
Attention: U.S. EPA Region 5, Office of the Comptroller  
P.O. Box 70753  
Chicago, Illinois 60673.



A transmittal letter stating the name of the facility, AHP's or WKI's name and address, and the U.S. EPA docket number of this action must accompany the payment. AHP or WKI will simultaneously send a copy of the check and transmittal letters to the U.S. EPA Project Manager.

44. AHP or WKI may dispute U.S. EPA's assessment of stipulated penalties by invoking the dispute resolution procedures under Section X: Dispute Resolution. The stipulated penalties in dispute will continue to accrue, but need not be paid, during the dispute resolution period. AHP or WKI must pay stipulated penalties and interest, if any, according to the dispute resolution decision or agreement. AHP or WKI must submit any such payment due to U.S. EPA within 30 days after receiving the resolution according to the payment instructions of this Section.

45. Neither invoking dispute resolution nor paying penalties will affect AHP's or WKI's obligation to comply with the terms of this Order not directly in dispute.

46. The stipulated penalties provided for in this Section do not preclude U.S. EPA from pursuing any other remedies or sanctions which may be available to U.S. EPA for AHP's or WKI's violation of any terms of this Order. However, U.S. EPA will not seek both a stipulated penalty under this Section and a statutory penalty for the same violation.

#### X. DISPUTE RESOLUTION

47. The parties to this Order recognize that disputes may arise between the parties regarding the work to be performed in Section VI or other provisions in this Order. The provisions of this Section X shall govern the resolution of such disputes regardless of whether these provisions are referenced elsewhere in the Order. The parties will use their best efforts to informally and in good faith resolve all disputes or differences of opinion.

48. If any party disagrees, in whole or in part, with any decision made or action taken under this Order, that party will notify the other relevant party's Project Manager of the dispute. The Project Managers will attempt to resolve the dispute informally.

49. If the Project Managers cannot resolve the dispute informally, any party may pursue the matter formally by placing its objections in writing and notifying the other party of its decision to invoke the dispute resolution provisions of this Section X. A written objection must state the specific points in dispute, the basis for that party's position, and any matters which that party considers necessary for determination. Within 14 days after receipt of a written objection, the other party will respond in writing.

50. The parties will in good faith attempt to resolve the dispute through formal negotiations within 21 days from receipt of the objections to the position of the party originally providing notice, or a longer period if agreed in writing by the parties. During formal

negotiations, any party may request a conference with appropriate senior management to discuss the dispute.

51. If the parties are unable to reach an agreement through formal negotiations, the matter shall be referred to the Director of the Waste, Pesticides and Toxics Division, U.S. EPA Region 5. Within 10 business days after any formal negotiations end, the parties may submit additional written information and supplemental statements of position to the Director. No representative of any party shall engage in ex parte discussions with the Director regarding the matter in dispute. U.S. EPA will maintain a record of the dispute, which will contain all written statements of position and any other documentation submitted pursuant to the terms of this Section. Based on the record, U.S. EPA will respond to AHP's or WKI's arguments and evidence and provide a detailed written decision on the dispute signed by the Director of the Waste, Pesticides and Toxics Division, U.S. EPA Region 5 ("EPA Dispute Decision"). In deciding whether stipulated penalties and/or interest, if any, must be paid, the Director of the Waste, Pesticides and Toxics Division may consider, among other factors deemed relevant, whether AHP or WKI initiated dispute resolution, and continued to negotiate a resolution of the dispute in good faith.

#### XI. FORCE MAJEURE AND EXCUSABLE DELAY

52. AHP and WKI shall perform the requirements of this Order within the time periods set forth or approved herein, except to the extent that performance is prevented or delayed by events which constitute a force majeure. Force majeure, for purposes of this Order, is any event arising from causes not foreseen and beyond AHP's or WKI's control that delays or prevents the timely performance of any obligation under this Order despite AHP's or WKI's best efforts. "Best efforts" include using best efforts to anticipate any potential force majeure event and address it during and after its occurrence, such that any delay or prevention of performance is minimized to the greatest extent possible. Force majeure does not include increased costs of the work to be performed under this Order, financial inability to complete the work, work stoppages or other labor disputes.

53. If any event occurs or has occurred that may delay or prevent the performance of any obligation under this Order, whether or not caused by a force majeure event, AHP or WKI must notify U.S. EPA by telephone within two business days after learning that the event may cause a delay. If AHP or WKI wishes to claim a force majeure event, within 15 business days thereafter AHP or WKI must provide to U.S. EPA in writing all relevant information relating to the claim, including a proposed revised schedule.

54. If U.S. EPA determines that a delay or anticipated delay is attributable to a force majeure event, U.S. EPA will extend in writing the time to perform the obligation affected by the force majeure event and any other obligation whose performance depends upon performance of the obligation affected by a force majeure event for such time as U.S. EPA determines is necessary to complete the obligation or obligations.

## XII. MODIFICATION

55. This Order may be modified only by mutual agreement of U.S. EPA and AHP and WKI, except as provided in paragraph 29 of Section VI - Work to be Performed. Any agreed modifications will be in writing, will be signed by all parties, will be effective on the date specified therein and will be incorporated into this Order.

## XIII. RESERVATION OF RIGHTS

56. Nothing in this Order restricts U.S. EPA's authority to seek AHPs or WKI's compliance with the Order and applicable laws and regulations. In addition, U.S. EPA specifically reserves its rights to bring an action to compel WKI to perform any work required to be performed by AHP under this Order that is not performed by AHP in accordance with the provisions of this Order and/or the attached Scope of Work. For violations of this Order, U.S. EPA reserves its rights to bring an action to enforce the Order, to assess penalties under Section 3008(h)(2) of RCRA, 42 U.S.C. § 6928(h)(2) (except as otherwise provided in paragraph 46), and to issue an administrative order to perform additional corrective actions or other response measures. In any later proceeding, AHP and WKI shall not assert or maintain any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon a contention that the claims raised by the United States in the later proceeding were or should have been raised here. Except as otherwise expressly provided in paragraph 38, 46 or 57, this Order is not a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, or authorities of U.S. EPA.

57. U.S. EPA reserves all of its rights to perform any portion of the work consented to here or any additional site characterization, feasibility study, and remedial work as it deems necessary to protect human health or the environment. Notwithstanding the foregoing sentence, U.S. EPA agrees not to perform any work required to be performed by AHP or WKI under this Order if AHP or WKI is in compliance with the terms of this Order.

58. If U.S. EPA determines that the actions of AHP or WKI related to this Order have caused or may cause a release of hazardous waste or hazardous constituent(s), or a threat to human health or the environment, or that AHP or WKI cannot perform any of the work ordered, U.S. EPA may order AHP or WKI to stop implementing this Order for the time U.S. EPA determines may be needed to abate the release or threat and to take any action that U.S. EPA determines is necessary to abate the release or threat.

59. Except for the specific waivers expressly set forth in this Order, AHP and WKI reserve all of their rights, remedies and defenses, including, but not limited to, all rights and defenses they may have: (a) to challenge U.S. EPA's performance of work or issuance of orders requiring AHP or WKI to perform additional work or incur additional expenses; (b) to challenge U.S. EPA's stop work orders; (c) regarding liability or responsibility for conditions at the facility, except for their right to contest U.S. EPA's jurisdiction to issue or enforce this Order;

and (d) against all parties and entities not bound by this Order. AHP and WKI have entered into this Order in good faith without trial or adjudication of any issue of fact or law. AHP and WKI reserve their right to seek judicial review of U.S. EPA actions taken under this Order, including, but not limited to, a proceeding brought by the United States to enforce the Order or to collect penalties for violations of the Order.

#### XIV. OTHER CLAIMS

60. AHP and WKI waive any claims or demands for compensation or payment under Section 106(b), 111, and 112 of CERCLA against the United States or the Hazardous Substance Superfund established by 26 U.S.C. § 9507 for, or arising out of, any activity performed or expense incurred under this Order. Additionally, this Order is not a decision on preauthorization of funds under Section 111(a)(2) of CERCLA.

61. Nothing in this Order shall constitute or be construed as a release by any party bound by this Order of any claim, cause of action, or demand, in law or equity, against any other person, firm, partnership, corporation, or other entity for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, disposal or release of any hazardous waste constituents, hazardous wastes, hazardous substances, pollutants or contaminants found at, released from, or taken from the facility.

#### XV. INDEMNIFICATION OF THE UNITED STATES GOVERNMENT

62. AHP agrees to indemnify, save and hold harmless the United States, its agencies, departments, agents, and employees, from all claims or causes of action arising solely from or on account of acts or omissions of AHP or its officers, employees, agents, independent contractors, receivers, trustees, and assigns in carrying out activities required by this Order. WKI agrees to indemnify, save and hold harmless the United States, its agencies, departments, agents, and employees, from all claims or causes of action arising solely from or on account of acts or omissions of WKI or its officers, employees, agents, independent contractors, receivers, trustees, and assigns in carrying out activities required by this Order. These indemnifications will not affect or limit the rights or obligations of AHP, WKI, or the United States under their various contracts. These indemnifications will not create any obligation on the part of AHP or WKI to indemnify the United States from claims arising solely from the acts or omissions of the United States, its agencies, departments, agents, or employees.

#### XVI. SEVERABILITY

63. If any judicial or administrative authority holds any provision of this Order to be invalid, the remaining provisions will remain in force and will not be affected.

## XVII. TERMINATION AND SATISFACTION

64. AHP or WKI may request that U.S. EPA issue a determination that either party has met the requirements of the Order for all or a portion of the facility. AHP or WKI may also request that U.S. EPA issue a "no further interest" or "no further action" determination for all or a portion of the facility.

65. This Order shall terminate as to AHP when AHP demonstrates in writing to the satisfaction of U.S. EPA that all activities required of it under this Order, including payment of any stipulated penalties owed and due, but not including AHP's continuing obligation to preserve all records, as required by this Order, have been performed, and AHP and U.S. EPA execute an "Acknowledgment of Termination and Agreement on Record Preservation and Reservation of Rights" (the "Acknowledgment"). This Order shall terminate as to WKI when WKI demonstrates in writing to the satisfaction of U.S. EPA that all activities required of it under this Order, including payment of any stipulated penalties owed and due, but not including WKI's continuing obligation to preserve all records, as required by this Order, and maintain any necessary institutional controls, as required by paragraphs 21 through 23 and 25 of this Order, have been performed, and WKI and U.S. EPA execute an "Acknowledgment of Termination and Agreement on Record Preservation and Reservation of Rights" (the "Acknowledgment"). The determination required by U.S. EPA under this paragraph, and execution by U.S. EPA of the Acknowledgment, shall not be unreasonably withheld or delayed.

66. AHP's and WKI's execution of the Acknowledgment will affirm their continuing obligation to preserve all records as required by Section VIII, to maintain (in the case of WKI) any necessary institutional controls or other long term measures as required in Section VI, and to recognize U.S. EPA's reservation of rights as set forth in Section XIII.

67. The failure of U.S. EPA to make the determination required by paragraph 65, a U.S. EPA determination pursuant to that paragraph that AHP or WKI has not performed all activities required of them under this Order, or the failure of U.S. EPA to execute the Acknowledgment provided for in paragraph 65 upon submission by AHP or WKI of a demonstration provided for in that paragraph shall be subject to Section X (Dispute Resolution) of this Order.

## XVIII. EFFECTIVE DATE

68. This Order is effective as to AHP and WKI upon receipt by each of them of a fully executed duplicate original of this Order signed by U.S. EPA. Except as specifically provided otherwise in this Order, all times for performance and compliance under this Order run from the effective date of this Order.

IT IS SO AGREED:

DATE: March 25, 2002

BY:

Sharon L. P. [Signature]  
Name

VP - Environmental Affairs  
Position

American Home Products Corp.  
Respondent

DATE: August 18, 2002

BY:

[Signature]  
Name

General Counsel  
Position

World Kitchen, Inc.  
Respondent

IT IS SO ORDERED:

DATE: August 22, 2002

BY:

Joseph M. Boyle  
Joseph M. Boyle, Chief

Enforcement and Compliance Assurance Branch  
Waste, Pesticides and Toxics Division  
U.S. Environmental Protection Agency  
Region 5

RCRA-05- 2002-0010

## ATTACHMENT 1

Table 1: Soil Performance Standards for Protecting Groundwater at the Facility

SOIL CONTAMINANT	SOIL CLEANUP LEVEL (µg/kg)
1,1-dichloroethylene	120
1,2-dichloroethylene (total)	1,500
1,1,1-trichloroethane	6,140
Trichloroethylene	230

Table 2: Industrial Soil Performance Standards for Human Exposure to Contaminants at the Facility

SOIL CONTAMINANT	SOIL CLEANUP LEVEL (µg/kg)
1,1-dichloroethylene	120
1,2-dichloroethylene (total)	150,000
1,1,1-trichloroethane	1,400,000
Trichloroethylene	6,100

Table 3: Residential Soil Performance Standards for Human Exposure to Contaminants at the Facility

SOIL CONTAMINANT	SOIL CLEANUP LEVEL (µg/kg)
1,1-dichloroethylene	54
1,2-dichloroethylene (total)	43,000
1,1,1-trichloroethane	630,000
Trichloroethylene	2,800

Table 4: Groundwater Performance Standards for the Facility

GROUNDWATER CONTAMINANT	GROUNDWATER CLEANUP LEVEL (µg/l)
1,1-dichloroethane	810
1,1-dichloroethylene	7
cis-1,2-dichloroethylene	70
trans-1,2-dichloroethylene	100
1,1,1-trichloroethane	200
Trichloroethylene	5
Vinyl chloride	2



## ATTACHMENT 2

Scope of Work for Corrective Measures Implementation at the  
World Kitchen Facility in Massillon, Ohio

**1. Introduction**

This Scope of Work sets forth the work to be conducted to implement Section VI (Work to be Performed) of the Administrative Order on Consent (AOC) captioned In the Matter of: World Kitchen, Inc. and American Home Products Corp., U.S. EPA Docket No.

Paragraphs 14 through 32 in Section VI of the AOC address the "Work to Be Performed" and Paragraphs 14 through 20 focus on the site soil and groundwater remediation and related activities. This Scope of Work identifies the soil and groundwater remediation work that will be performed under the AOC and includes the following sections:

- Schedule of Remediation and Consent Order Activities (Paragraphs 16, 17, and 18 of the AOC).
- Groundwater Remediation (Paragraphs 16, 17, and 20 of the AOC).
- Soil Remediation (Paragraphs 16 and 18 of the AOC).

In 1993, American Home Products Corp. (AHP) prepared a Final Corrective Measures Study (CMS) for the facility located at 359 State Avenue, Ext. N.W., Massillon, Ohio (the facility) which is currently owned and operated by World Kitchen, Inc. (WKI). The CMS estimates that it will take more than 30 years to clean up groundwater contamination at the WKI facility. U.S. EPA issued a Final Decision on April 23, 2001, that among other things, requires soil vapor extraction (SVE) to treat contaminated soil, air sparging of shallow groundwater and collection using SVE, and extraction of contaminated groundwater in the bedrock aquifer and treatment by air stripping. A summary of the current remediation status is provided below:

- As documented in the CMS, all contaminated groundwater beneath the facility is contained by the pumping of recovery wells W-1 and W-10 and is treated by the on-site air stripper installed in 1986.
- The planned groundwater remediation program to be implemented for the facility (CMS Alternative GW-6) consists of continuing the pump and treat system, incorporating pulse pumping of the recovery wells, and adding air sparging (AS) in the shallow zone.
- The soil remediation program recommended in the CMS was soil vapor extraction (SVE) in three areas (Area-1, Area-2, and Area-3) outside the building (CMS Alternative OS-3), and in one area (Area-4) inside the building (CMS Alternative IS-2). However, recent soil investigations have shown that soil remediation is no longer needed in one of the areas outside the building and that soil remediation is needed in an area not identified in the CMS (Weston, 2001). Area-3 has contaminant concentrations below the soil performance standards; therefore no soil remediation is needed in that area.

110-105-4149-10

Contamination exceeding the soil performance standards is present east of Area-3 (Area-3 East). AHP will implement SVE in this area. Subsequent references to soil CMS Alternative OS-3 include conducting SVE in Area-3 East instead of Area-3. The soil vapor extraction areas are shown in Figure 1.

## **2. Schedule of Remediation and Consent Order Activities**

A schedule for implementing the remediation activities is provided in Table 1. The schedule provides for, among other things, installation and startup of the air sparging/soil vapor extraction (AS/SVE) system within one year of the effective date of the AOC. The schedule also provides for the implementation of a quarterly groundwater monitoring program within 90 days of the effective date of the AOC.

In addition, AHP will provide the following documents to U.S. EPA in accordance with the attached schedule (see Table 1):

- Progress Reports
- Site Health and Safety Plan
- Sampling and Analysis Plan
- Quality Assurance Project Plan (consistent with U.S. EPA, 1998)
- Community Relations Plan
- Institutional Control Plan (consistent with U.S. EPA, 2000)
- Project Management Plan
- Data Management Plan
- Soil Vapor Extraction (IS-2 and OS-3) and Air Sparging (GW-6) Design Report
- Construction Completion Report and Operation and Maintenance Plan

## **3.0 Groundwater Remediation**

This section discusses the following groundwater remediation activities that AHP will implement under the AOC:

- Groundwater Corrective Measures Alternative
- Groundwater Monitoring Program
- Groundwater Remediation Reporting
- Air Sparging System

### **3.1 Groundwater Corrective Measures Alternative**

The groundwater remediation approach selected in U.S. EPA's Final Decision is Alternative GW-6 which consists of pulse pumping of groundwater from wells W-1 and W-10 with treatment via air stripping (hereafter referred to as the pump and treat system), and air sparging in the shallow groundwater. AHP will operate the groundwater remediation system continuously except for periodic maintenance activities. AHP will describe the required operation and maintenance procedures for the groundwater remediation system in the U.S. EPA-approved

Operations and Maintenance (O&M) Plan. The groundwater remediation system operations will be recorded either daily by on-site WKI maintenance personnel, or automatically with electronic data loggers. AHP will document the O&M activities and total operation time in the quarterly progress reports to be submitted under the AOC (the frequency of these reports may be modified upon approval by U.S. EPA).

Groundwater Pump and Treat System Completion: AHP may discontinue operating the groundwater pump and treat system based on the following process:

a) AHP may discontinue operating the groundwater pump and treat system once the sampling data from the groundwater monitoring program show that no groundwater performance standards (see 3.2 below) are exceeded at any compliance well (R-2, R-3, R-4, R-5, and S-4) during two consecutive sampling events, and for the remaining site wells (W-1, W-2, W-10, I-2, I-4, I-5, L-1, L-5, and R-1), or some subset of these wells agreed upon by U.S. EPA and AHP, for two consecutive sampling events. Within 30 days of validation of this data, AHP must submit the validated data in a report to the U.S. EPA (see 3.3 below). Upon U.S. EPA approval of the report, AHP may enter the performance monitoring period (see 3.2 below).

b) If five years after the installation of the AS/SVE system, groundwater performance standards are not met, the concentrations in the compliance wells have reached steady-state levels (i.e., the groundwater concentrations remain constant within  $\pm 10\%$  over a 1-year period, or as approved by U.S. EPA), and the soil and groundwater remediation systems have been operated in accordance with the approved O&M Plan<sup>1</sup>, AHP has the option at any time to reevaluate the relevant points of compliance or the groundwater performance standards which have not been met and/or evaluate alternative corrective measures for the groundwater remediation area (U.S. EPA, 1988, U.S. EPA, 1993, U.S. EPA, 1999, and/or other applicable guidance in effect at the time). AHP may submit a document to U.S. EPA for approval, that proposes new points of compliance, new groundwater performance standards, and/or alternative corrective measures as necessary to protect human health and the environment. The alternative corrective measures that AHP may submit include, but are not limited to the following: engineering controls, institutional controls, and monitored natural attenuation. U.S. EPA will approve or disapprove AHP's proposal based on criteria provided in applicable U.S. EPA regulations and/or guidance in effect at the time.

### **3.2 Groundwater Monitoring Program**

Paragraph 15 in the AOC requires the implementation of a groundwater monitoring program to monitor the shallow and bedrock aquifers at the facility. The goal of this program is to monitor the progress of groundwater remediation and establish the basis to determine its completion.

---

<sup>1</sup> Minor or infrequent deviations from the requirements of the approved O&M Plan will not preclude AHP from pursuing this option provided U.S. EPA agrees that the deviations do not have a negative impact on the operation of the soil and groundwater remediation systems.

The monitoring wells that AHP will sample as part of the groundwater monitoring program are classified into three categories: compliance wells, assessment wells, and background wells. Compliance wells are used as "compliance points." "For final cleanups selected to return groundwater to its maximum beneficial use, EPA recommends regulators set the point of compliance throughout the area of contaminated groundwater, or when waste is left in place, at and beyond the boundary of the waste management area encompassing the original sources of groundwater contamination...." (footnote omitted) (U.S. EPA, 2001). The compliance wells will be used to compare groundwater contaminant concentrations to the groundwater performance standards to determine if remediation is complete. Assessment wells will be used to assess groundwater remediation system progress and to determine if changes are needed in recovery well pumping rates, air sparging flow rates, and pulse pumping schedules. The background well will be used to monitor background (upgradient) conditions. The compliance, assessment, and background wells to be used in the groundwater monitoring program (see Figure 2) are:

- Shallow zone: well L-3 (background), wells L-5 and AS-1 (assessment), well S-4 (compliance).
- Bedrock zone: wells R-2, R-3, R-4 and R-5 (compliance).
- Bedrock zone production/recovery wells: wells W-1 and W-10 (assessment).

The groundwater monitoring program consists of the following: all compliance wells, all assessment wells, and the background well<sup>2</sup>. AHP will analyze samples from all compliance wells, all assessment wells, and the background well for the following site-specific target compounds as required by this Scope of Work:

Site Specific Target Compound	Groundwater Performance Standard (µg/l)
1,1-dichloroethane	810
1,1-dichloroethylene	7
cis-1,2-dichloroethylene	70
trans-1,2-dichloroethylene	100
1,1,1-trichloroethane	200
trichloroethylene	5
vinyl chloride	2

<sup>2</sup> In addition, AHP will sample the following site wells (W-1, W-2, W-10, I-2, I-4, I-5, L-1, L-5, and R-1), or some subset of these wells agreed upon by the U.S. EPA and AHP, for two consecutive quarterly sampling events to show no groundwater performance standards are exceeded before AHP discontinues operation of the groundwater pump and treat system (see 3.1a).

AHP will sample all compliance wells, all assessment wells, and the background well quarterly starting 90 days after the effective date of the AOC. However, AHP reserves the right to petition U.S. EPA to reduce the number of wells sampled, the frequency of sampling, and/or the constituents being sampled for during and after the first five year period if performance of the activities that are the subject of the petition are not necessary to protect human health or the environment. At a minimum, after five years of quarterly monitoring, the groundwater sampling schedule for all wells will be reduced to semi-annual.

If at any time during the sampling program, AHP questions groundwater sampling data from any of the compliance wells, AHP will initiate a discussion with U.S. EPA to determine an appropriate course of action. This course of action may include the resampling of one or more of the wells and resubmitting the new data in replacement of the previously collected data.

The groundwater pump and treat system performance-monitoring period begins after the groundwater pump and treat system is no longer required to operate (see 3.1). The performance-monitoring period consists of semi-annual groundwater sampling of all compliance wells, bedrock zone production/recovery wells (W-1 and W-10), and the background well for two years. At the conclusion of each semi-annual performance monitoring period, and within 30 days of the validation of the data obtained during that monitoring period, AHP will submit the validated data in a report to the U.S. EPA (see 3.3 below). If no groundwater performance standards are exceeded during the performance monitoring period, then AHP may terminate the performance monitoring program and must submit the groundwater remediation and monitoring report required under Section 3.3 below.

If one or more of the groundwater performance standards above is exceeded in any of the wells sampled during the performance monitoring period, AHP will initiate a discussion with the U.S. EPA to determine an appropriate course of action. This course of action may include additional operation of the groundwater pump and treat system and/or alternative corrective measures as necessary to protect human health and the environment. AHP has the option at any time to reevaluate the relevant points of compliance or the groundwater performance standards which have not been met and/or evaluate alternative corrective measures for the groundwater remediation area (U.S. EPA, 1988, U.S. EPA, 1993, U.S. EPA, 1999, and/or other applicable guidance in effect at the time). AHP may submit a document to U.S. EPA for approval, that proposes new points of compliance, new groundwater performance standards, and/or alternative corrective measures as necessary to protect human health and the environment. Alternative corrective measures may include, but are not limited to the following: engineering controls, institutional controls, and monitored natural attenuation. U.S. EPA will approve or disapprove AHP's proposal based on criteria provided in applicable U.S. EPA regulations and/or guidance in effect at the time.

### **3.3 Groundwater Remediation Reporting**

AHP must submit the following reports to U.S. EPA:

a) Within 30 days after AHP determines that, based on validated site data, the groundwater performance standards have been attained at the facility, AHP must submit a written report to U.S. EPA for review and approval. This report must include a description of the performance monitoring to be performed to ensure that groundwater performance standards continue to be attained after the groundwater pump and treat system is no longer required to operate.

b) Within 30 days after the performance monitoring period has ended and AHP has validated site data, AHP must submit a written report to U.S. EPA for review and approval. In the report, a registered professional engineer or geologist and AHP's Project Manager must state that the groundwater performance standards have been attained at the point of compliance in satisfaction of requirements of the AOC, to the best of their knowledge, or that AHP has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA.

AHP must revise and resubmit both reports in response to U.S. EPA's written comments, if any, within 30 days of receipt of the comments from U.S. EPA, or under such other extended schedule as may be approved by U.S. EPA.

If U.S. EPA approves the report set forth in Paragraph 3.3b above and there have been no exceedances of groundwater performance standards during the performance monitoring period (or if AHP has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA), AHP may discontinue operating the groundwater pump and treat system, and the groundwater sampling and reporting program, and AHP will have satisfied all groundwater remediation requirements of the AOC.

### **3.4 Air Sparging System**

This section discusses the following aspects of the AOC groundwater air sparging system:

- Groundwater Air Sparging Completion
- Groundwater Air Sparging Reporting

#### **3.4.1 Groundwater Air Sparging Completion**

AHP will conduct groundwater air sparging in Area 3-East (see Figure 1) and will sample air sparging assessment well AS-1 as part of the groundwater monitoring program described in Section 3.2. AHP may discontinue operating the groundwater air sparging system and the groundwater sampling of well AS-1 based on the following process:

a) AHP may discontinue operating the groundwater air sparging system once the sampling data from the groundwater monitoring program show that no groundwater performance standards (see 3.2) are exceeded for the air sparging assessment well AS-1 during two consecutive sampling events. Within 30 days of the validation of this data, AHP will submit the validated data in a report to the U.S. EPA (see 3.4.2 below) and enter a performance monitoring period (see 3.4.1c below).

b) If five years after the effective date of the AOC, the groundwater performance standards are not met in well AS-1, the concentrations have reached steady-state levels (the groundwater concentrations remain constant within  $\pm 10\%$  over a 1-year period, or as approved by U.S. EPA), and the air sparging system has been operated in accordance with the approved O&M Plan<sup>3</sup>, AHP has the option at any time to reevaluate the groundwater performance standards which have not been met and/or evaluate alternative corrective measures for the air sparging area (U.S. EPA 1988, U.S. EPA, 1993, and/or other applicable guidance in effect at the time). AHP may submit a document to U.S. EPA for approval, that proposes new groundwater performance standards and/or alternative corrective measures as necessary to protect human health and the environment. The alternative corrective measures that AHP may submit include, but are not limited to the following: engineering controls, institutional controls, and monitored natural attenuation. U.S. EPA will approve or disapprove AHP's proposal based on criteria provided in applicable U.S. EPA regulations and/or guidance in effect at the time.

c) The air sparging performance-monitoring period will start after the air sparging system is no longer required to operate (see 3.4.1a). The performance-monitoring period will consist of quarterly groundwater sampling of the assessment well AS-1 (see 3.2) for two years. At the conclusion of the performance monitoring period, and within 30 days of the validation of this data, AHP will submit the validated data in a report to U.S. EPA (see 3.4.2 below).

d) If any of the groundwater performance standards (listed in 3.2) are exceeded in well AS-1 during the performance monitoring period (see 3.4.1c), AHP will initiate a discussion with the U.S. EPA to determine an appropriate course of action. This course of action may include additional operation of the groundwater air sparging system and/or alternative corrective measures as necessary to protect human health and the environment. AHP may submit a document to U.S. EPA for approval, that proposes new groundwater performance standards and/or alternative corrective measures as necessary to protect human health and the environment. Alternative corrective measures may include, but are not limited to the following: engineering controls, institutional controls, and monitored natural attenuation. U.S. EPA will approve or disapprove AHP's proposal based on criteria provided in applicable U.S. EPA regulations and/or guidance in effect at the time.

### **3.4.2 Groundwater Air Sparging Reporting**

AHP must submit the following reports to U.S. EPA:

a) Within 30 days after AHP determines that, based on validated site data, the groundwater performance standards have been attained in well AS-1 (see 3.4.1a), AHP must submit a written report to U.S. EPA for review and approval. This report must include a description of the performance monitoring to be performed to ensure that groundwater performance standards

---

<sup>3</sup> Minor or infrequent deviations from the requirements of the approved O&M Plan will not preclude AHP from pursuing this option provided U.S. EPA agrees that the deviations do not have a negative impact on the operation of the soil and groundwater remediation systems.

continue to be attained after the air sparging system is no longer required to operate.

b) Within 30 days after the performance monitoring period has ended and AHP has validated site data, AHP must submit a written report to U.S. EPA for review and approval. In this report, a registered professional engineer or geologist and AHP's Project Manager must state that the groundwater performance standards have been attained in well AS-1 in full satisfaction of requirements of the AOC, to the best of their knowledge, or that AHP has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA.

AHP must revise and resubmit both reports in response to U.S. EPA's written comments, if any, within 30 days of receipt of the comments from U.S. EPA, or under such other extended schedule as may be approved by U.S. EPA.

If U.S. EPA approves the demonstration set forth in Paragraph 3.4.1a and there have been no exceedances of groundwater performance standards during the performance monitoring period (or if AHP has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA), AHP may discontinue operating the groundwater air sparging system, the groundwater sampling of well AS-1 and reporting, and AHP will have satisfied the groundwater air sparging remediation requirements of the AOC.

#### **4.0 Soil Remediation**

This section discusses the following aspects of the AOC soil remediation:

- Soil Corrective Measures Alternatives
- Soil Monitoring Program
- Soil Remediation Reporting

##### **4.1 Soil Corrective Measure Alternatives**

The soil remediation program consists of conducting SVE in three areas outside the building (CMS Alternative OS-3) and one area inside the building (CMS Alternative IS-2). AHP will operate the soil remediation system continuously except for periodic maintenance activities. AHP will describe the required operation and maintenance procedures for the soil remediation system in the U.S. EPA-approved Operations and Maintenance (O&M) Plan. The soil remediation system operations will be recorded either daily by WKI on-site maintenance personnel, or automatically with electronic data loggers. AHP will document the O&M activities and total operation time in the progress reports.

Soil Remediation Completion: The soil remediation in any given area will be complete and AHP may discontinue operating the soil remediation program based on the following process:

a) AHP will operate each of the SVE systems until it reaches a negligible removal rate, which is defined as an extracted air target-compound removal rate less than 0.2 lb/day for two



consecutive months or the removal rate remains within a narrowly defined range (AHP will provide a specific proposal to U.S. EPA for approval to define this range) for four consecutive months. At this point, AHP will initiate soil confirmation sampling (see 4.2 below).

b) If soil confirmation sampling does not confirm that the soil performance standards have been met (see 4.2), then AHP has the option to reevaluate the soil performance standards and/or to evaluate other corrective measures in those areas where the designated soil performance standards have not been met. AHP may submit a document to U.S. EPA for approval, that proposes new soil performance standards and/or alternative corrective measures as necessary to protect human health and the environment. The alternative corrective measures that AHP may submit include, but are not limited to, engineering controls. U.S. EPA will approve or disapprove AHP's proposal based on criteria provided in applicable U.S. EPA regulations and/or guidance in effect at the time.

c) The soil remediation will be complete in any of the SVE remediation areas when the soil confirmation sampling results are below all of the designated performance standards (see 4.2), or as otherwise approved by U.S. EPA.

d) The soil remediation will continue in any of the SVE remediation areas when any of the soil confirmation sampling results are above the designated performance standards (see 4.2). In these areas, SVE remediation will continue with subsequent soil confirmation sampling (see 4.2) until sample results in the area are all below the performance standards or until otherwise approved by U.S. EPA. AHP may submit a document to U.S. EPA for approval, that proposes new soil performance standards and/or alternative corrective measures as necessary to protect human health and the environment. The alternative corrective measures that AHP may submit include, but are not limited to, engineering controls. U.S. EPA will approve or disapprove AHP's proposal based on criteria provided in applicable U.S. EPA regulations and/or guidance in effect at the time.

#### **4.2 Soil Monitoring Program**

The soil remediation monitoring will consist of monitoring air from the SVE vents and collecting confirmation soil samples from the SVE remediation areas. During the SVE system operation, AHP will collect air samples and flow measurements from the SVE system air emissions in each of the remediation areas. AHP will analyze the air samples for the four target constituents listed below. These data will be used to evaluate system performance, maintenance, optimization, and termination. The point of compliance for the soil performance standards is at any points necessary to protect against exceedances of the soil performance standards for protecting groundwater in the table below.

Soil confirmation sampling will consist of advancing three soil borings spaced evenly throughout each SVE remediation area and collecting two soil samples from each soil boring: one from the midpoint which is defined as halfway between ground surface and the bottom of the deepest SVE well in that area; and one from the soil interval with the maximum photoionization detector

(PID) screening level. AHP will analyze the samples for the following site-specific target compounds to determine compliance with their respective soil performance standard:

Site-Specific Target Compound	Soil Performance Standard (µg/kg)
1,1-dichloroethylene	120
1,2-dichloroethylene	1500
1,1,1-trichloroethane	6140
trichloroethylene	230

If during *soil confirmation sampling*, soil data from any of the samples are questioned, AHP will initiate a discussion with U.S. EPA to determine an appropriate course of action. This course of action may include resampling of one or more of the areas and resubmitting the new data in replacement of the previously collected data.

### 4.3 Soil Remediation Reporting

Within 30 days after determining that the soil remediation is complete, AHP must submit a written report to U.S. EPA for review and approval. A registered professional engineer or geologist and AHP's Project Manager must state in the report that the soil performance standards were attained in all SVE areas in full satisfaction of requirements of the AOC, to the best of their knowledge, or that AHP has attained alternative soil performance standards and/or alternative corrective measures approved by U.S. EPA. AHP must revise and resubmit the report in response to U.S. EPA's written comments, if any, within 30 days of receipt of the comments from U.S. EPA, or under such other extended schedule as approved by U.S. EPA. If U.S. EPA approves the demonstration set forth in Paragraph 4.2 above and all soil confirmation samples are below the soil performance standards (or if AHP has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA), AHP may discontinue conducting soil remediation, sampling, maintenance, and reporting activities required under the AOC, and AHP will have satisfied all soil remediation requirements of the AOC.

### 5. References

U.S. EPA. 1988. *Alternate Concentration Limit Guidance*. Office of Solid Waste and Emergency Response. Washington, D.C. EPA/530-SW-87-031.

U.S. EPA. 1993. *Guidance for Evaluating the Technical Impracticability of Ground-Water Restoration*. Office of Solid Waste and Emergency Response. Washington, D.C. OSWER Directive 9234.2-25.

U.S. EPA. 1998. *RCRA Quality Assurance Project Plan (QAPP) Instructions*. Region 5. Waste, Pesticides and Toxics Division. Chicago, Illinois.

U.S. EPA. 1999. *Use of Monitored Natural Attenuation at Superfund, RCRA Corrective Action, and Underground Storage Tank Sites*. Office of Solid Waste and Emergency Response. Washington, D.C. OSWER Directive 9200.4-17P.

U.S. EPA. 2000. *Use of Institutional Controls in the RCRA Corrective Action Program*. Region 5. Waste, Pesticides and Toxics Division. Chicago, Illinois.

U.S. EPA. 2001. *Handbook of Groundwater Protection and Cleanup Policies for RCRA Corrective Action*. Office of Solid Waste and Emergency Response. Washington, D.C. EPA/530/R-01/015.

WESTON. 1993. "Final Corrective Measures Study, EKCO Housewares, Inc., Massillon, Ohio."

WESTON. 1994. "Addendum to the Corrective Measures Study, EKCO Housewares, Inc., Massillon, Ohio."

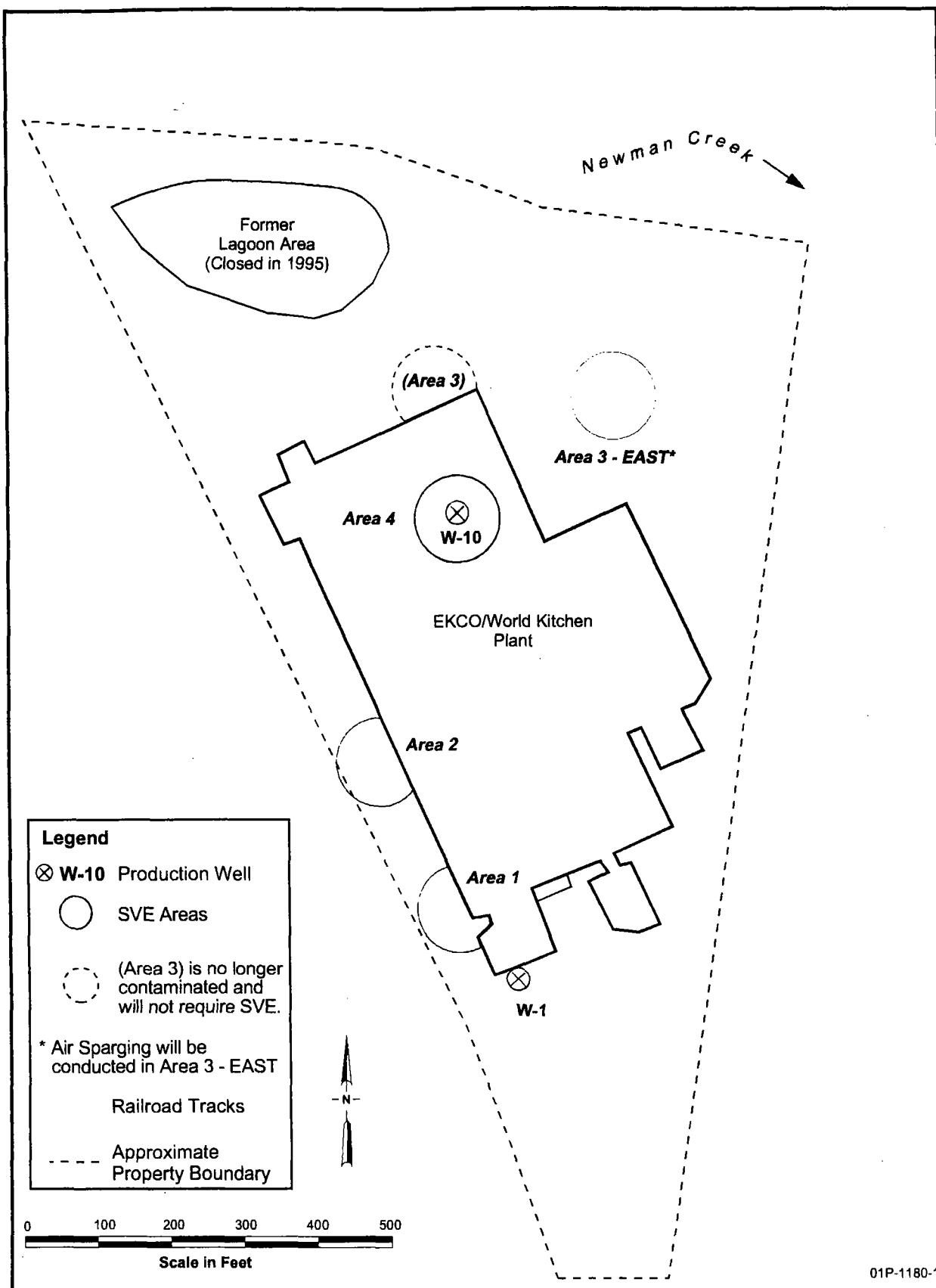
WESTON. 2001. "Final Soil Investigation Report for the EKCO WKI Facility, Massillon, Ohio."

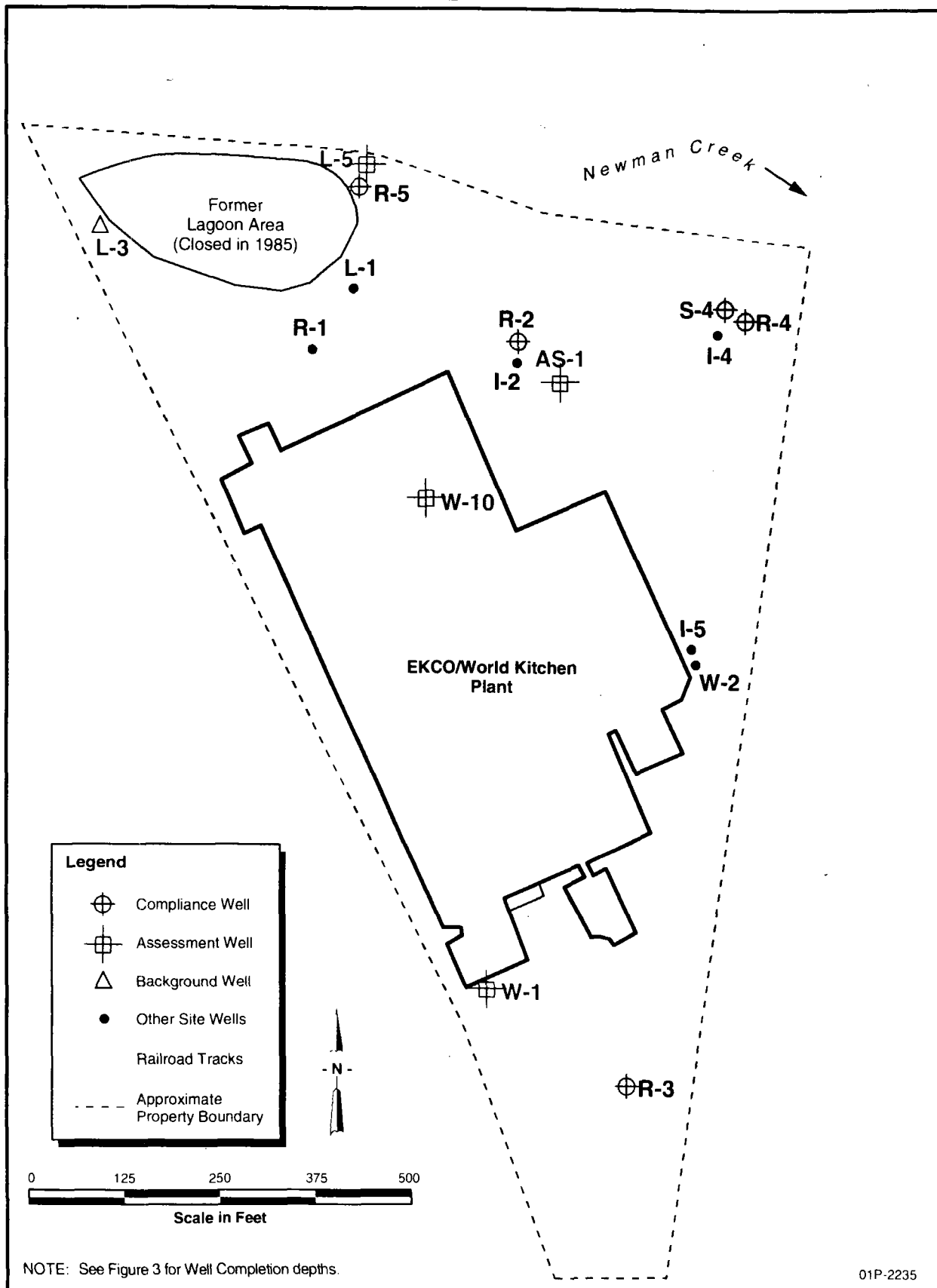
**Table 1. Administrative Order on Consent Schedule  
WKI, Massillon, Ohio Facility**

<b>Event</b>	<b>Due Date*</b>
American Home Products Corporation and U.S. EPA must each designate a Project Manager and notify each other in writing.	14 days
Submit a Community Relations Plan.	45 days
Submit an Institutional Control Plan.	45 days
Submit a Project Management Plan.	45 days
Submit a Data Management Plan.	45 days
Submit a Sampling and Analysis Plan.	60 days
Submit a Quality Assurance Project Plan.	60 days
Submit a Site Health and Safety Plan.	60 days
Submit first Progress Report and submit quarterly thereafter**.	60 days
Begin quarterly groundwater monitoring program for first 5 years and semi-annually thereafter.**	90 days
Submit a Design Report for implementing IS-2, OS-3, and GW-6.	90 days
Complete construction and begin operation of IS-2, OS-3, and GW-6.	12 months
Submit a Construction Completion Report and Operation and Maintenance Plan for IS-2, OS-3, and GW-6.	15 months

\* Due date is the time from the effective date of the AOC.

\*\* Or other schedule as approved by U.S. EPA.





**FIGURE 2 GROUNDWATER MONITORING PROGRAM BACKGROUND, ASSESSMENT, AND COMPLIANCE WELLS**

IN THE MATTER OF:  
World Kitchen, Inc.  
359 State Avenue, Ext. N.W.  
Massillon, Ohio 44648-0560  
OHD 045 205 424

DOCKET NO. RCRA-05- 2002-0010

CERTIFICATE OF SERVICE

I hereby certify that today I have filed the original of this Administrative Order on Consent and this Certificate of Service in the Office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed to the following:

Ms. Geraldine Smith, Esq.  
American Home Products Corporation  
Five Giralda Farms  
Madison, NJ 07940  
Certified Mail #7099 3400 0000 9585 3970

Ms. Keely J. O'Bryan, Esq.  
Thompson Hine  
3900 Key Center  
127 Public Square  
Cleveland, Ohio 44114-1291  
Certified Mail #7099 3400 0000 9585 4038

Dated: 22 August 2002

Mary Ann Stephen  
Mary Ann Stephen  
Administrative Program Assistant  
Enforcement and Compliance  
Assurance Branch  
United States Environmental  
Protection Agency  
77 W. Jackson Boulevard  
Chicago, Illinois 60604-3590  
(312) 886-4435

RECEIVED  
REGIONAL HEARING  
CLERK  
7/15/02

'02 AUG 22 P1:48

US ENVIRONMENTAL  
PROTECTION AGENCY  
REGION V

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

IN THE MATTER OF:	)	ADMINISTRATIVE ORDER ON CONSENT
	)	
EKCO Housewares, Inc.	)	U.S. EPA Docket No:
359 State Avenue, Ext. N.W.	)	
Massillon, Ohio 44648-0560	)	
	)	
EPA ID#: OHD 045 205 424	)	Proceeding under Section 3008(h) of the
	)	Resource Conservation and Recovery Act,
RESPONDENT.	)	as amended, 42 U.S.C. § 6928(h).
_____	)	

**I. JURISDICTION**

1. The Administrator of the United States Environmental Protection Agency ("U.S. EPA") is issuing this Administrative Order on Consent ("Order") to EKCO Housewares, Inc. ("EKCO") under Section 3008(h) of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6928(h). The Administrator has delegated the authority to issue orders under Section 3008(h) of RCRA to the Chief, Enforcement and Compliance Assurance Branch; Waste, Pesticides and Toxics Division; U.S. EPA Region 5.

2. EKCO owns and operates a facility that manufactures cookware at 359 State Avenue, Ext. N.W., Massillon, Ohio (the "facility"). The facility lies just south of Newman Creek within the incorporated boundary of Massillon, Ohio on approximately 13 acres of land. The facility began operations in 1945 and currently manufactures pressed and coated non-stick bakeware.

3. EKCO agrees not to contest U.S. EPA's jurisdiction to issue this Order, to enforce its terms, or to impose sanctions for violations of the Order.

4. EKCO waives any rights to request a hearing on this matter pursuant to Section 3008(b) of RCRA and 40 C.F.R. Part 24, and consents to the issuance of this Order without a hearing under Section 3008(b) of RCRA as a Consent Order issued pursuant to Section 3008(h) of RCRA.

**II. DEFINITIONS**

5. This Order incorporates the definitions in RCRA, 42 U.S.C. §§ 6901 - 6922k, and the regulations promulgated under RCRA unless otherwise specified.

**III. PARTIES BOUND**

6. This Order applies to and binds U.S. EPA, EKCO and its agents, successors, assigns,



trustees, receivers, and all persons, including but not limited to contractors and consultants, acting on behalf of EKCO. EKCO will be responsible for and liable for any violations of this Order, regardless of EKCO's use of employees, agents, contractors, or consultants to perform work required by this Order.

7. No change in ownership or corporate or partnership status relating to the facility will alter EKCO's obligations under this Order. Any conveyance of title, easement, or other interest in the facility, or a portion of the facility, will not affect EKCO's obligations under this Order. EKCO will give written notice of this Order to any successor in interest prior to transferring ownership or operation of the facility or a portion thereof and will notify U.S. EPA in writing within five days of the transfer. This written notice will describe how EKCO has assured that, despite the transfer, all institutional controls required now or in the future for the facility will be implemented and maintained. This paragraph will not apply if U.S. EPA and EKCO agree that this Order has terminated as to the facility or any relevant portion of the facility.

#### IV. DETERMINATIONS

8. After consideration of the Administrative Record, the Chief, Enforcement and Compliance Assurance Branch; Waste, Pesticides and Toxics Division; U.S. EPA Region 5 has made the following conclusions of law and determinations:

- a. EKCO is a "person" within the meaning of Section 1004(15) of RCRA.
- b. EKCO is the owner or operator of a facility that has operated under interim status subject to Section 3005(e) of RCRA.
- c. Certain wastes and constituents found at the facility are hazardous wastes and/or hazardous constituents pursuant to Section 1004(5), 3001 of RCRA and 40 C.F.R. Part 261.
- d. There is or has been a release of hazardous wastes or hazardous constituents into the environment from the facility.
- e. The actions required by this Order are necessary to protect human health or the environment.

#### V. PROJECT MANAGER

9. U.S. EPA and EKCO must each designate a Project Manager and notify each other in writing of the Project Manager selected within 14 days of the effective date of this Order. Each Project Manager will be responsible for overseeing the implementation of this Project. The parties must provide prompt written notice whenever they change Project Managers.

## VI. WORK TO BE PERFORMED

10. Pursuant to Section 3008(h) of RCRA, EKCO agrees to and is hereby ordered to perform the actions specified in this section, in the manner and by the dates specified here. EKCO represents that it has the technical and financial ability to carry out corrective action at the facility. EKCO must perform the work undertaken pursuant to this Order in compliance with RCRA and other applicable federal and state laws and their implementing regulations, and consistent with all relevant U.S. EPA guidance documents as appropriate to the facility. This guidance includes, but is not limited to, the Documentation of Environmental Indicator Determination Guidance, Use of Institutional Controls in the RCRA Corrective Action Program, and relevant portions of the Model Scopes of Work for RCRA Corrective Action and of U.S. EPA's risk assessment guidance.

11. EKCO must implement the remedy selected in U.S. EPA's Final Decision. The components of the selected remedy include:

- a. Air sparging of shallow groundwater and collection using soil vapor extraction;
- b. Extraction of contaminated groundwater in the bedrock aquifer and treatment by air stripping;
- c. Implementation of a groundwater monitoring program to monitor the shallow and bedrock aquifers at the facility;
- d. Well permit restrictions;
- e. Institutional controls to restrict the facility to non-residential use only; and
- f. Soil vapor extraction to treat contaminated soil.

12. EKCO must submit to U.S. EPA within 45 days of the effective date of this Order, a detailed schedule to construct and implement the selected remedy required by paragraph 11, and to submit a Final Remedy Construction Completion Report. EKCO must complete as much of the initial construction work as practicable within six months of the effective date of this Order. EKCO must complete the selected remedy, including, but not limited to, demonstrating that the groundwater performance standards in the Attachment to this Order have been met within a reasonable period of time to protect human health and the environment.

13. EKCO must demonstrate by 12/31/2001, through submitting an Environmental Indicators Report and by performing any other necessary activities, consistent with this Section, that all current human exposures to contamination at or from the facility are under control. That is, significant or unacceptable exposures do not exist for all media known or reasonably suspected to be contaminated with hazardous wastes or hazardous constituents above risk-based

levels, for which there are complete pathways between contamination and human receptors.

14. To prepare for and provide the demonstration required by paragraph 13, above, EKCO must:

- a. Determine appropriate risk screening criteria under current use scenarios and provide the basis and justification for the use of these criteria;
- b. Determine any current unacceptable risks to human health and the environment and describe why other identified risks are acceptable;
- c. Control any unacceptable current human exposures that EKCO identifies. This includes performing any corrective actions or other response measures ("corrective measures") necessary to control current human exposures to contamination to within acceptable risk levels; and
- d. Prepare a report, either prior to or as part of the Environmental Indicators Report, that describes and justifies any interim actions performed to meet the requirements of this Section, including sampling documentation, construction completion documentation and/or confirmatory sampling results.

15. EKCO must demonstrate by 12/31/2002 that the soil performance standards for contaminated soil subject to soil vapor extraction are met<sup>1</sup>. The point of compliance for the soil performance standards is at any points necessary to protect against unacceptable cross-media transfer.

16. Within 30 days after EKCO determines that groundwater performance standards<sup>2</sup> have been attained at the facility, EKCO must submit a written report to U.S. EPA for review and approval. A registered professional engineer and EKCO's Project Manager must state in the report that the groundwater performance standards have been attained in full satisfaction of the requirements of the Order, to the best of their knowledge. The point of compliance for the groundwater performance standards is throughout the area where groundwater is contaminated above the cleanup levels, or, when waste is left in place, at and beyond the boundary of the waste management area encompassing the original sources of groundwater contamination. The report must include a performance monitoring period to ensure that groundwater performance standards continue to be attained. EKCO must revise and resubmit the report in response to U.S. EPA's

---

<sup>1</sup> The soil performance standards for protecting groundwater at the EKCO facility are found in the Attachment to this Order.

<sup>2</sup> The groundwater performance standards for contaminants of concern in groundwater at and from the EKCO facility are found in the Attachment to this Order.

written comments, if any, by the dates U.S. EPA specifies. Upon U.S. EPA's written approval, EKCO may cease implementation of the selected remedy and operations and maintenance.

17. EKCO must continue to stabilize the migration of contaminated groundwater. This includes maintaining any corrective measures necessary to stabilize the migration of contaminated groundwater. Groundwater monitoring must be conducted to confirm that any contaminated groundwater remains within the original area of contamination.

18. EKCO must not allow water from any existing wells on the property described in paragraph 2 to be used for drinking, bathing, washing, or other human contact purposes or for livestock, farming or irrigation until the groundwater performance standards specified in the Attachment to this Order are achieved. EKCO must also not allow the installation of any new water wells for drinking, bathing, washing, or other human contact purposes or for livestock, farming or irrigation on this property until the groundwater performance standards specified in the Attachment to this Order are achieved.

19. EKCO must not allow any residential activities on the property described in paragraph 2 of this Order. The term "residential activities" shall include, but not be limited to, the following:

- a. Single and multi-family dwelling and rental units;
- b. Day care centers and preschools;
- c. Hotels and motels;
- d. Educational (except as a part of industrial activities at the facility) and religious facilities;
- e. Restaurants and other food and beverage services (except as a part of industrial activities at the facility);
- f. Entertainment and recreational facilities (except as a part of industrial activities at the facility);
- g. Hospitals and other extended care medical facilities; and
- h. Transient or other residential facilities.

The term "industrial activities" shall include manufacturing, processing operations and office and warehouse use including, but not limited to, production, storage and sales of durable goods and other non-food chain products and parking/driveway use.

20. EKCO must restrict activities at the property described in paragraph 2 of this Order that may result in human exposure to soil at unacceptable risk levels<sup>3</sup>. The point of compliance for restricting activities is at any point where direct contact exposure to soil may occur

21. EKCO must restrict the use of the property described in paragraph 2 of this Order in any manner that may interfere with a remedial action, operation and maintenance, monitoring, or other measures necessary to assure the effectiveness and integrity of the remedy to be implemented pursuant to this Order. Such restrictions include, but are not limited to:

- a. Pumping of groundwater that impacts the effectiveness of the on-site pump-and-treat system in maintaining an inward groundwater gradient from the facility boundary to the two active industrial water wells. EKCO must also notify adjacent landowners, and state and local governments of its pump-and-treat groundwater remedy and ensure that any current or future off-site groundwater pumping activities do not (i) impact EKCO's ability to prevent off-site migration of contaminated groundwater from its facility and (ii) impact the inward groundwater gradient from the facility boundary toward its two pumping industrial water wells; and
- b. The installation, construction, removal, or use of any wells or the excavation of any soil within areas exceeding soil cleanup goals as designated by U.S. EPA in its 12/13/2000 letter to EKCO except as approved by U.S. EPA as consistent with this Order.

22. EKCO must record with the Office of Recorder, Stark County, Ohio, a deed notice in the chain of title for the property described in paragraph 2 of this Order which, at a minimum, includes the restrictions specified in paragraphs 18 through 21 of the Order. Within 45 days of the effective date of this Order, EKCO must submit the notice to U.S. EPA for review and approval. Within 15 days of U.S. EPA's approval, EKCO must record the deed notice. Within 30 days of recording the deed notice, EKCO must provide U.S. EPA with a certified copy of the original recorded notice.

23. Within 90 days of the effective date of this Order, EKCO must submit to U.S. EPA for review and approval an estimate of the cost for EKCO to assure completion of the work to be performed pursuant to this Order. Within 30 days of U.S. EPA's approval of the cost estimate, EKCO must provide financial security, in the amount of the cost estimate, in one of the forms permitted under 40 C.F.R. § 264.145 (modified to replace the terms "post-closure" and "closure" with "corrective action" and referencing this Order, as approved by U.S. EPA). After U.S. EPA approval of the Final Remedy Construction Completion Report, the amount of required financial

---

<sup>3</sup> The soil performance standards for human exposure at the EKCO facility are found in the Attachment to this Order.

assurance under this paragraph may be reduced by U.S. EPA based on revised cost estimates and expenditures to date.

24. Reporting and other requirements:

- a. EKCO must establish a publicly accessible repository for information regarding site activities and conduct public outreach and involvement activities.
- b. EKCO must provide quarterly progress reports to U.S. EPA by the fifteenth day of the month after the end of each quarter. The report must list work performed to date, data collected, problems encountered, project schedule, and percent project completed.
- c. The parties will communicate frequently and in good faith to assure successful completion of the requirements of this Order, and will meet on at least a semi-annual basis to discuss the work proposed and performed under this Order.
- d. EKCO must provide a Final Remedy Construction Completion Report documenting all work that EKCO has performed pursuant to the schedule for construction and implementation of the selected remedy. A registered professional engineer and EKCO's Project Manager shall state in the report that the selected remedy has been constructed and implemented in accordance with the design and specifications, to the best of their knowledge.
- e. For ongoing monitoring and operation and maintenance after construction of the selected remedy, EKCO must include an operations and maintenance plan in the Final Remedy Construction Completion Report. EKCO must revise and resubmit the report and plan in response to U.S. EPA's written comments, if any, by the dates U.S. EPA specifies. Upon U.S. EPA's written approval, EKCO must implement the approved operation and maintenance plan according to the schedule and terms of the plan.
- f. Any risk assessments EKCO conducts must estimate human health and ecological risk under reasonable maximum exposure for both current and reasonably expected future land use scenarios. In conducting the risk assessments, EKCO will follow the Risk Assessment Guidance for Superfund (RAGS) or other appropriate U.S. EPA guidance. EKCO will use appropriate, conservative screening values when screening to determine whether further investigation is required. Appropriate screening values include those derived from Federal Maximum Contaminant Levels, U.S. EPA Region 9 Preliminary Remediation Goals, U.S. EPA Region 5 Ecological Screening Levels, U.S. EPA Region 5 Risk Based Screening Levels, or RAGS.

- g. All sampling and analysis conducted under this Order must be performed in accordance with the Region 5 RCRA Quality Assurance Project Plan Policy (April 1998) as appropriate for the site, and be sufficient to identify and characterize the nature and extent of all releases as required by this Order. U.S. EPA may audit laboratories EKCO selects or require EKCO to purchase and have analyzed any performance evaluation samples selected by U.S. EPA which are compounds of concern. EKCO must notify U.S. EPA in writing at least 14 days before beginning each separate phase of field work performed under this Order. At the request of U.S. EPA, EKCO will provide or allow U.S. EPA or its authorized representative to take split or duplicate samples of all samples EKCO collects under this Order.

25. Project Managers can agree in writing to extend, for 90 days or less, any deadline in this Section. However, extensions of greater than 90 days require obtaining approval from the Chief of the Enforcement and Compliance Assurance Branch; Waste, Pesticides and Toxics Division.

## VII. ACCESS

26. Upon reasonable notice, and at reasonable times, U.S. EPA, its contractors, employees, and any designated U.S. EPA representatives may enter and freely move about the facility to, among other things: interview facility personnel and contractors; review EKCO's progress in carrying out the terms of this Order; conduct tests, sampling, or monitoring as U.S. EPA deems necessary; use a camera, sound recording, or other documentary equipment; and verify the reports and data EKCO submits to U.S. EPA. EKCO will permit such persons to inspect and copy all non-privileged photographs and documents, including all sampling and monitoring data, that pertain to work undertaken under this Order and that are within the possession or under the control of EKCO or its contractors or consultants. EKCO may request split samples, or copies of all photographs, tapes, videos or other recorded evidence created by U.S. EPA and releaseable under the Freedom of Information Act.

27. If EKCO must go beyond the facility's boundary to perform work required by this Order, EKCO must use its best efforts to obtain the necessary access agreements from the present owner(s) of such property within 30 days after EKCO knows of the need for access. Any such access agreement must provide for access by U.S. EPA and its representatives. EKCO must submit a copy of any access agreement to U.S. EPA's Project Manager. If it does not obtain agreements for access within 30 days, EKCO must notify U.S. EPA in writing within 14 additional days of both the efforts undertaken to obtain access and the failure to obtain access agreements. U.S. EPA may, at its discretion, assist EKCO in obtaining access.

28. Nothing in this Section limits or otherwise affects U.S. EPA's right of access and entry under applicable law, including RCRA and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675.

## VIII. RECORD PRESERVATION

29. EKCO must retain, during the pendency of this Order and for at least six years after the Order terminates, all data and all final documents now in its possession or control or which come into its possession or control which relate to this Order. EKCO must notify U.S. EPA in writing 90 days before destroying any such records, and give U.S. EPA the opportunity to take possession of any non-privileged documents. EKCO's notice will refer to the effective date, caption, and docket number of this Order and will be addressed to:

Director  
Waste, Pesticides and Toxics Division  
U.S. EPA, Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604-3590

EKCO will also promptly give U.S. EPA's Project Manager a copy of the notice.

30. Within 30 days of retaining or employing any agent, consultant, or contractor ("agents") to carry out the terms of this Order, EKCO will enter into an agreement with the agents to give EKCO a copy of all data and final non-privileged documents produced under this Order.

31. EKCO will not assert any privilege claim concerning any data gathered during any investigations or other actions required by this Order.

## IX. STIPULATED PENALTIES

32. EKCO must pay the following stipulated penalties to the United States for violations of this Order:

- a. For failure to submit quarterly progress reports by the dates scheduled in paragraph 24, above: \$1,000 per day for the first 14 days and \$2,000 per day thereafter.
- b. For failure to adequately demonstrate that current human exposures are under control by 12/31/2001: \$5,000 per day.
- c. For failure to implement, according to the approved schedule, the selected remedy as described in paragraphs 11 and 12: \$3,000 per day for the first 14 days and \$6,000 per day thereafter.
- d. For failure to submit or revise and submit, the Final Remedy Construction



Completion Report and operation and maintenance plan as required and scheduled in paragraphs 12 and 24: \$1,000 per day for the first 14 days and \$2,000 per day thereafter.

- e. For failure to implement, according to the approved schedule and terms, the approved operation and maintenance plan: \$2,000 per day for the first 14 days and \$4,000 per day thereafter.
- f. For failure to adequately demonstrate the soil cleanup performance standards by 12/31/2002: \$3,000 per day.
- g. For failure to adequately demonstrate the groundwater cleanup performance standards within a reasonable period of time pursuant to the approved schedule required in paragraph 12: \$5,000 per day.
- h. For failure to maintain the institutional controls as required in paragraphs 18 through 21: \$5,000 per day.
- i. For failure to submit for review and record a deed notice as required and scheduled in paragraph 22: \$5,000 per day.
- j. For failure to provide the cost estimate and financial security as required and scheduled in paragraph 23: \$2,000 per day for the first 14 days and \$4,000 per day thereafter.

33. Whether or not EKCO has received notice of a violation, stipulated penalties will begin to accrue on the day a violation occurs, and will continue to accrue until EKCO complies. For item b, above, stipulated penalties will not accrue during the period, if any, beginning 31 days after the Environmental Indicators Report is due until the date that U.S. EPA notifies EKCO in writing of any deficiency in the required demonstration(s). Separate stipulated penalties for separate violations of this Order will accrue simultaneously.

34. EKCO must pay any stipulated penalties owed to the United States under this Section within 30 days of receiving U.S. EPA's written demand to pay the penalties, unless EKCO invokes the dispute resolution procedures under Section X: Dispute Resolution. A written demand for stipulated penalties will describe the violation and will indicate the amount of penalties due.

35. Interest will begin to accrue on any unpaid stipulated penalty balance beginning 31 days after EKCO receives U.S. EPA's demand letter. Interest will accrue at the current value of funds rate established by the Secretary of the Treasury. Under 31 U.S.C. § 3717, EKCO must pay an additional penalty of six percent per year on any unpaid stipulated penalty balance more than 90 days overdue.

36. EKCO must pay all penalties by certified or cashier's check payable to the United States of America, or by wire transfer, and will send the check to:

U.S. Department of the Treasury  
Attention: U.S. EPA Region 5, Office of the Comptroller  
P.O. Box 70753  
Chicago, Illinois 60673.

A transmittal letter stating the name of the facility, EKCO's name and address, and the U.S. EPA docket number of this action must accompany the payment. EKCO will simultaneously send a copy of the check and transmittal letters to the U.S. EPA Project Manager.

37. EKCO may dispute U.S. EPA's assessment of stipulated penalties by invoking the dispute resolution procedures under Section X: Dispute Resolution. The stipulated penalties in dispute will continue to accrue, but need not be paid, during the dispute resolution period. EKCO must pay stipulated penalties and interest, if any, according to the dispute resolution decision or agreement. EKCO must submit such payment to U.S. EPA within 30 days after receiving the resolution according to the payment instructions of this Section.

38. Neither invoking dispute resolution nor paying penalties will affect EKCO's obligation to comply with the terms of this Order not directly in dispute.

39. The stipulated penalties set forth in this Section do not preclude U.S. EPA from pursuing any other remedies or sanctions which may be available to U.S. EPA for EKCO's violation of any terms of this Order. However, U.S. EPA will not seek both a stipulated penalty under this Section and a statutory penalty for the same violation.

#### X. DISPUTE RESOLUTION

40. The parties will use their best efforts to informally and in good faith resolve all disputes or differences of opinion.

41. If either party disagrees, in whole or in part, with any decision made or action taken under this Order, that party will notify the other party's Project Manager of the dispute. The Project Managers will attempt to resolve the dispute informally.

42. If the Project Managers cannot resolve the dispute informally, either party may pursue the matter formally by placing its objections in writing. A written objection must state the specific points in dispute, the basis for that party's position, and any matters which it considers necessary for determination.

43. U.S. EPA and EKCO will in good faith attempt to resolve the dispute through formal negotiations within 21 days, or a longer period if agreed in writing by the parties. During

formal negotiations, either party may request a conference with appropriate senior management to discuss the dispute.

44. If the parties are unable to reach an agreement through formal negotiations, within 14 business days after any formal negotiations end, EKCO and U.S. EPA's Project Manager may submit additional written information to the Director of the Waste, Pesticides and Toxics Division, U.S. EPA Region 5. U.S. EPA will maintain a record of the dispute, which will contain all statements of position and any other documentation submitted pursuant to this Section. U.S. EPA will allow timely submission of relevant supplemental statements of position by the parties to the dispute. Based on the record, U.S. EPA will respond to EKCO's arguments and evidence and provide a detailed written decision on the dispute signed by the Director of the Waste, Pesticides and Toxics Division, U.S. EPA Region 5 ("EPA Dispute Decision").

#### XI. FORCE MAJEURE AND EXCUSABLE DELAY

45. Force majeure, for purposes of this Order, is any event arising from causes not foreseen and beyond EKCO's control that delays or prevents the timely performance of any obligation under this Order despite EKCO's best efforts.

46. If any event occurs or has occurred that may delay the performance of any obligation under this Order, whether or not caused by a force majeure event, EKCO must notify U.S. EPA within two business days after learning that the event may cause a delay. If EKCO wishes to claim a force majeure event, within 15 business days thereafter EKCO must provide to U.S. EPA in writing all relevant information relating to the claim, including a proposed revised schedule.

47. If U.S. EPA determines that a delay or anticipated delay is attributable to a force majeure event, U.S. EPA will extend in writing the time to perform the obligation affected by the force majeure event for such time as U.S. EPA determines is necessary to complete the obligation or obligations.

#### XII. MODIFICATION

48. This Order may be modified only by mutual agreement of U.S. EPA and EKCO, except as provided in Section VI - Work to be Performed. Any agreed modifications will be in writing, will be signed by both parties, will be effective on the date of signature by U.S. EPA, and will be incorporated into this Order.

#### XIII. RESERVATION OF RIGHTS

49. Nothing in this Order restricts U.S. EPA's authority to seek EKCO's compliance with the Order and applicable laws and regulations. For violations of this Order, U.S. EPA reserves its rights to bring an action to enforce the Order, to assess penalties under Section 3008(h)(2) of RCRA, 42 U.S.C. § 6928(h)(2), and to issue an administrative order to perform

corrective actions or other response measures. In any later proceeding, EKCO shall not assert or maintain any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon a contention that the claims raised by the United States in the later proceeding were or should have been raised here. This Order is not a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, or authorities of U.S. EPA.

50. U.S. EPA reserves all of its rights to perform any portion of the work consented to here or any additional site characterization, feasibility study, and remedial work as it deems necessary to protect human health or the environment.

51. If U.S. EPA determines that EKCO's actions related to this Order have caused or may cause a release of hazardous waste or hazardous constituent(s), or a threat to human health or the environment, or that EKCO cannot perform any of the work ordered, U.S. EPA may order EKCO to stop implementing this Order for the time U.S. EPA determines may be needed to abate the release or threat and to take any action that U.S. EPA determines is necessary to abate the release or threat.

52. EKCO does not admit any of U.S. EPA's factual or legal determinations. Except for the specific waivers in this Order, EKCO reserves all of its rights, remedies and defenses, including all rights and defenses it may have: (a) to challenge U.S. EPA's performance of work; (b) to challenge U.S. EPA's stop work orders; and (c) regarding liability or responsibility for conditions at the facility, except for its right to contest U.S. EPA's jurisdiction to issue or enforce this Order. EKCO has entered into this Order in good faith without trial or adjudication of any issue of fact or law. EKCO reserves its right to seek judicial review of U.S. EPA actions taken under this Order, including a proceeding brought by the United States to enforce the Order or to collect penalties for violations of the Order.

#### XIV. OTHER CLAIMS

53. EKCO waives any claims or demands for compensation or payment under Section 106(b), 111, and 112 of CERCLA against the United States or the Hazardous Substance Superfund established by 26 U.S.C. § 9507 for, or arising out of, any activity performed or expense incurred under this Order. Additionally, this Order is not a decision on preauthorization of funds under Section 111(a)(2) of CERCLA.

#### XV. INDEMNIFICATION OF THE UNITED STATES GOVERNMENT

54. EKCO indemnifies, saves and holds harmless the United States, its agencies, departments, agents, and employees, from all claims or causes of action arising from or on account of acts or omissions of EKCO or its officers, employees, agents, independent contractors, receivers, trustees, and assigns in carrying out activities required by this Order. This indemnification will not affect or limit the rights or obligations of EKCO or the United States

under their various contracts. This indemnification will not create any obligation on the part of EKCO to indemnify the United States from claims arising from the acts or omissions of the United States.

#### XVI. SEVERABILITY

55. If any judicial or administrative authority holds any provision of this Order to be invalid, the remaining provisions will remain in force and will not be affected.

#### XVII. TERMINATION AND SATISFACTION

56. EKCO may request that U.S. EPA issue a determination that EKCO has met the requirements of the Order for all or a portion of the facility. EKCO may also request that U.S. EPA issue a "no further interest" or "no further action" determination for all or a portion of the facility.

57. The provisions of the Order will be satisfied upon EKCO's and U.S. EPA's execution of an "Acknowledgment of Termination and Agreement on Record Preservation and Reservation of Rights", consistent with U.S. EPA's Model Scope of Work.

58. EKCO's execution of the Acknowledgment will affirm its continuing obligation to preserve all records as required by Section VIII, to maintain any necessary institutional controls or other long term measures, and to recognize U.S. EPA's reservation of rights as required in Section XIII.

#### XVIII. EFFECTIVE DATE

59. This Order is effective on the date that U.S. EPA signs the Order.

#### IT IS SO AGREED:

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
[Person's Name, Position]  
[Name of Respondent]

#### IT IS SO ORDERED:

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Joseph M. Boyle, Chief  
Enforcement and Compliance Assurance Branch  
Waste, Pesticides and Toxics Division  
U.S. Environmental Protection Agency  
Region 5

## ATTACHMENT

### Soil Performance Standards for Protecting Groundwater at the EKCO Facility

SOIL CONTAMINANT	SOIL CLEANUP LEVEL (µg/kg)
1,1-dichloroethylene	120
1,2-dichloroethylene (total)	1,500
1,1,1-trichloroethane	6,140
Trichloroethylene	230

### Soil Performance Standards for Human Exposure at the EKCO Facility

SOIL CONTAMINANT	SOIL CLEANUP LEVEL (µg/kg)	
	Residential	Industrial
1,1-dichloroethylene	54	120
1,2-dichloroethylene (total)	43,000	150,000
1,1,1-trichloroethane	630,000	1,400,000
Trichloroethylene	2,800	6,100

### Groundwater Performance Standards for the EKCO Facility

GROUNDWATER CONTAMINANT	GROUNDWATER CLEANUP LEVEL (µg/l)
1,1-dichloroethane	810
1,2-dichloroethane	5
1,1-dichloroethylene	7
cis-1,2-dichloroethylene	70
trans-1,2-dichloroethylene	100
1,1,1-trichloroethane	200
Trichloroethylene	5
Vinyl chloride	2

## MEETING ROSTER

PLACE: ORC TUB BLD.

[illegible]

SETTLEMENT CONFERENCE

NAME EKCO HOUSE WARES

DATE 6-30-88

SUBJECT 3008(L) ORDER

## SUMMARY OF CONFERENCE

---

---

---

---

1

---

\_\_\_\_\_



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION V

IN THE MATTER OF:	)	
	)	
EKCO HOUSEWARES, INC.	)	ADMINISTRATIVE ORDER
359 STATE EXTENSION, N.W.	)	ON CONSENT
MASSILLON, OHIO 44648	)	
	)	U.S. EPA DOCKET NO.:
U.S. EPA I.D.# OHD 045 205 424	)	V-W-87-R-08
	)	
RESPONDENT.	)	
	)	
Proceeding under Section 3008(h)	)	
of the Resource Conservation and	)	
Recovery Act of 1976, as amended,	)	
42 U.S.C. §6928(h).	)	

I. JURISDICTION

This ADMINISTRATIVE ORDER ON CONSENT (Consent Order) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (hereinafter U.S. EPA) by Section 3008(h) of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. §6928(h), and delegated to the Regional Administrators by U.S. EPA Delegation Nos. 8-31 and 8-32 on April 16, 1985.

This Administrative Order on Consent is issued to Ekco Housewares, Inc., (Respondent), the owner and operator of a facility at 359 State Extension, N.W., Massillon, Ohio 44648 (the Facility). Respondent agrees to undertake all actions required by the terms and conditions hereunder, and agrees not to contest the authority or jurisdiction of the U.S. EPA to issue this Consent Order. Respondent further agrees not to contest the existence of the statutory prerequisites after the issuance of this Order. However, Respondent does not



APR 17 1989

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.

CHICAGO, ILLINOIS 60604

REPLY TO THE ATTENTION OF:

5HR-13

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Steven Oster  
Willkie Farr & Gallagher  
Three Lafayette Centre  
1155 21st Street NW  
Washington, DC 20036-3302

Re: Corrective Action Order  
On Consent  
EKCO Housewares, Inc.

Dear Mr. Oster:

This letter is to acknowledge receipt of the 3008(h) Corrective Action Order signed by Ekco Housewares, Inc. A fully executed copy of the 3008(h) Corrective Action Order is enclosed for you file.

Your cooperation in resolving this matter is appreciated.

Sincerely yours,

A handwritten signature in cursive script, reading "David A. Ullrich", is written over the typed name.

David A. Ullrich  
Associate Director, Office of RCRA  
Waste Management Division

Enclosure

cc: Michael Savage, OEPA-CO

admit any of U.S. EPA's Findings of Fact or conclusion of law and determinations and reserves any rights and defenses which it may have regarding liability or responsibility in this or any subsequent proceedings, except Respondent agrees to perform the terms and conditions of this Consent Decree.

## II. APPLICABILITY

A. This Consent Order shall apply to and be binding upon Respondent and its officers, directors, employees, agents, and successors and assigns, and upon all persons, independent contractors, contractors, and consultants acting under or for Respondent.

B. No change in ownership or corporate or partnership status relating to the Facility will in any way alter Respondent's responsibility under this Consent Order, unless previously approved in writing by U.S. EPA.

C. Respondent and U.S. EPA shall provide a copy of this Consent Order to its contractor who shall be contractually required to provide same to its subcontractors, laboratories, and consultants retained to conduct or monitor any portion of the work performed pursuant to this Consent Order within one (1) week of the effective date of this Consent Order or date of such retention. In any action by U.S. EPA to enforce the terms of this Consent Order, it shall not be a defense that action was taken or omitted by Respondent's contractor, subcontractor, or consultant.

D. During the pendency of the work to be performed under this Consent Order, Respondent shall give notice of this order to any successor in interest prior to transfer of ownership or operation of the Facility.

### III. STATEMENT OF PURPOSE

In entering into this Consent Order, the mutual objectives of the U.S. EPA and the Respondent are: (1) to perform a RCRA Facility Investigation (RFI) to determine the nature and extent of the presence of any release or the potential for future releases of hazardous wastes and/or hazardous constituents from the Facility; and (2) to perform a Corrective Measures Study (CMS) to identify and evaluate alternatives for the appropriate extent of corrective measures, if any, necessary to prevent or mitigate migration or release of hazardous wastes or hazardous constituents from the Facility.

### IV. U.S. EPA'S FINDINGS OF FACT

A. Respondent is a foreign company doing business in the State of Ohio and is a person as defined in Section 1004(15) of RCRA, 42 U.S.C. §6903(15) and 40 CFR 260.10.

B. Respondent was a generator of hazardous waste and an owner and operator of a hazardous waste management Facility located at 359 State Avenue Extension, N.W., Massillon, Ohio 44648.

C. Respondent operated the Facility deemed by U.S. EPA as a hazardous waste management facility on and after November 19, 1980.

D. In its notification dated August 15, 1980, Respondent identified itself as handling hazardous waste from non-specific sources (F002 - Spent halogenated solvents) identified at 40 CFR §261.31 at the Facility.

E. Respondent's Facility is characterized as follows:

- (1) The Ekco Housewares Inc.'s Facility is located on approximately 13 acres, 500 feet north of State Avenue Extension and 1500 feet west of the Tuscarawas River in the northwest portion of Massillon, Ohio. Newman Creek which flows eastward into the Tuscarawas River is the facility's boundary to the north and northwest.
- (2) The Respondent's plant manufactures metal bakeware.
- (3) Non-contact cooling water from Respondent's manufacturing processes are currently discharged to Newman Creek.
- (4) The Respondent's facility is located on the western flank of the buried valley associated with the Tuscarawas River. The unconsolidated materials consist of glacial till and sand and gravel outwash deposits. The underlying bedrock consists of shales and sandstones of the lower Pottsville formation.
- (5) The top of the weathered bedrock surface dips towards the northeast but the Respondent's continuous pumping of Well W-1 at a rate of approximately 400 gpm creates a cone of depression several hundred feet in diameter. The vertical gradient from W-10 to W-1 is approximately 15 feet per 100 feet. The velocity of the groundwater has been estimated to be 4.9 feet per day.
- (6) Respondent, with the approval of the Ohio Environmental Protection Agency (OEPA), entered into a program to treat groundwater.

The Respondent's method for treating the groundwater consists of pumping the groundwater from two existing wells and removing the volatile organic chemicals (VOCs) by pumping the groundwater through a packed column aeration treatment unit, and then discharging into Newman's Creek pursuant to an NPDES permit. This treatment system has been operational since March 2, 1986, and has reduced the concentration of VOCs in the groundwater.

F. The following hazardous wastes or hazardous waste constituents have been detected at the Facility:

1. Chemical

Cadmium  
Lead  
Trichloroethylene  
Dichlorobenzene  
Toluene  
Xylene  
Acetone  
1,2, Dichloropropane  
Methylene Chloride  
1,1-Dichloroethane  
1,1,1-Trichloroethene  
trans-1,2 Dichloroethene  
Vinyl Chloride

2. The presence of the above listed hazardous wastes or hazardous waste constituents in certain media, including soils, surface water, and groundwater leads U.S. EPA to conclude that there is a release into the environment from the facility subject to interim status under Section 3005(e) and that a response is necessary to protect human health or the environment.

3. Samples collected on May 22, 1984, by the Respondent indicate that the North Tank Farm and West Tank Farm soils had concentrations of VOCs and, therefore may be sources of the aquifer contamination.

4. As requested by the OEPA, the Respondent sampled and analyzed water from the city of Massillon's Well #4 which is approximately 1/2 miles to the east of the Respondent's facility. Vinyl chloride was detected in a sample drawn from this well on June 12, 1986, at a concentration of 9 ug/l, and 4 ug/l from a June 19, 1986, sample. Presently, no causal connection between Respondent's operation and the findings at well #4 has been established. By September 2, 1986, this well was abandoned.

G. The hazardous waste and/or hazardous waste constituents identified in Section F above, which include trichlorethylene, dichlorobenzene, 1,1,-dichloroethane, vinyl chloride, 1,1,1 trichloroethane, and cadmium, are known or suspected carcinogens. (References: The Merck Index, Tenth Edition, The Condensed Chemical Dictionary, Tenth Edition, and Suspected Carcinogens, 2nd Edition).

H. Respondent's Facility is located in Massillon, Ohio and is approximately 1/2 mile southwest from Massillon's municipal water wells #1, #2, and #3. Newman Creek adjoins the Respondent's property and joins the Tuscarawas River less than 1/2 mile downstream from the facility.

I. The Regional Administrator, U.S. EPA, Region V, has concluded that the actions ordered below are necessary to protect human health and the environment.

#### V. U.S. EPA'S CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set out above, the Regional Administrator has made the following conclusions of law and determinations:

- A. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. §6903(15).
- B. Respondent is the owner or operator of a facility that has operated or is operating subject to Section 3005(e) of RCRA, 42 U.S.C. §6952(e).
- C. Certain wastes and constituents thereof found at the facility are hazardous wastes or hazardous constituents thereof as defined by Section 1004(5) of RCRA, 42 U.S.C. §6903(5). These are also hazardous wastes or hazardous constituents within the meaning of Section 3001 of RCRA, 42 U.S.C. §6921 and 40 CFR Part 261.
- D. There is or has been a release of hazardous wastes and/or hazardous constituents into the environment from Respondent's facility.
- E. The actions required by this Consent Order are necessary to protect human health or welfare or the environment.

#### VI. WORK TO BE PERFORMED

Pursuant to Section 3008(h) of RCRA, 42 U.S.C. §6928(h), Respondent agrees and hereby consents to perform the following acts in the manner and by the dates specified herein. All work undertaken pursuant to this Order shall be performed in a manner consistent with the Interim Measures Work Plan and Report (IMP), attached hereto as Attachment I, the Scopes of Work attached hereto as Attachments II and III, RCRA and any implementing regulations.



A. In the event the Respondent and or U.S. EPA identifies a current or potential threat to human health or the environment and identified additional Interim Measures (IM) which mitigate this threat and are consistent with and integrated into any long term solution at the facility, the U.S. EPA or the Respondent shall notify the other party in writing, summarizing the immediacy and magnitude of the potential threat to human health or the environment and the nature of the corrective action(s) being considered. Unless extended by U.S. EPA, within ten (10) days of notifying U.S. EPA, or notification by the U.S. EPA, the Respondent shall submit to U.S. EPA an IM Work Plan for approval.

B. The IM Work Plan shall ensure that the Interim Measures are designed to mitigate a current or potential threat to human health or the environment and are consistent with and integrated into any long term solution at the facility. The IM Work Plan shall document the procedures to be used by the Respondent for the implementation of Interim Measures including: the objectives of the Interim Measures; design, construction, operation, monitoring and maintenance requirements; and detailed schedules.

C. The IM Work Plan will list Interim Measures Objectives and will be performed in accordance with the Groundwater Quality Assessment Plan, Quality Assurance Management Plan, and RFI/QMS plans and specifications.

D. Respondent agrees to negotiate with U.S. EPA concerning implementation of the IM Work Plan. U.S. EPA reserves its right to undertake all measures necessary to implement the IM Work Plan.

E. The U.S. EPA believes at the time of the signing of the Consent Order, that no further interim measures are presently required with respect to this facility. This statement does not estop the U.S. EPA at some future time from asserting that interim measures are necessary, based upon information presently available, future information, or both.

F. Within sixty (60) days of the effective date of this Consent Order, Respondent shall submit to U.S. EPA a work plan for a RCRA Facility Investigation (RFI) and Corrective Measures Study (CMS) (the "RFI/CMS Work Plan"). The Work Plan and activities conducted pursuant to this Consent Order are subject to approval by U.S. EPA and shall be performed in a manner consistent with the Scopes of Work contained in Attachments II and III. Attachments II and III to this Consent Order are incorporated as if fully set forth herein. The Work Plan shall be developed in accordance with RCRA, its implementing substantive regulations, and U.S. EPA guidance documents (RFI Guidance) provided to the Respondent.

G. In accordance with Attachments II and III, the Work Plan shall be designed to define the presence, magnitude, extent, direction, and rate of movement of any hazardous wastes and hazardous waste constituents emanating from the Facility, within and beyond the Facility boundary. The Work Plan shall include explicit detailed tasks explaining how Respondent will determine: (1) the presence or absence of hazardous wastes and hazardous waste constituents; (2) the nature and extent, and the rate of movement of contamination emanating from the Facility on and off the Respondent's property; (3) the possible routes of migration of hazardous wastes and

hazardous waste constituents on and off the facility, including characterization of the geology and hydrology of the facility which delineates possible routes of migration; (4) the extent and potential for migration of hazardous wastes and hazardous constituents through each of the environmental media; and (5) corrective measure alternatives to remediate the observed and potential contamination. The Work Plan shall include a specific schedule for implementation of all activities described in the Work Plan.

H. In accordance with Attachments II and III, the Work Plan will include: (1) a Project Management Plan; (2) a Data Collection Quality Assurance Plan; (3) a specific Data Management Plan; (4) a Health and Safety Plan; and (5) a schedule for implementation of the Work Plan, including preparation and submission of preliminary and final reports to U.S. EPA. The submission of the final report on the Corrective Measures Study in the schedule shall be targeted within eighteen (18) to twenty-four (24) months of the date of this Consent Order.

I. U.S. EPA shall promptly review the proposed plans and inform Respondent in writing of its approval or disapproval of the Plans or any part thereof. In the event of any disapproval, U.S. EPA shall specify the deficiencies and reasons for disapproval and any necessary modifications. Within thirty (30) days of receipt of such disapproval, Respondent shall have the opportunity to meet with U.S. EPA to discuss problems with the Plans and to propose alternatives or suggestions to resolve them. Within thirty (30) days of this meeting or the receipt of U.S. EPA's disapproval of the Work Plan, whichever is later, Respondent shall amend, making the changes the Plans required by U.S. EPA, and resubmit the Work Plan. The U.S. EPA shall approve,

approve with modifications, or disapprove the Work Plan. If the Work Plan is approved or approved with modifications, it shall be deemed the approved Work Plan. Any subsequent disapproval shall, unless waived by U.S. EPA be deemed a violation of this Consent Order. The U.S. EPA-approved plans shall be deemed incorporated into and part of this Consent Order. If the Respondent does not agree with U.S. EPA modifications to the Plan, the parties shall refer the matter to Dispute Resolution as set forth in Paragraph XVII.

J. Within thirty (30) days of approval or modification by U.S. EPA of the Work Plan, Respondent shall commence work and implement the tasks required by the Plans, in accordance with the requirements, specifications, and schedules stated in the Plans as approved or modified by U.S. EPA.

K. Respondent shall provide preliminary and final IM and RFI/CMS reports to U.S. EPA in accordance with the schedule contained in the approved Plans.

L. U.S. EPA shall review any preliminary or final reports, and notify Respondent in writing of U.S. EPA's approval, approval with modifications or disapproval of the report or any part thereof. In the event of any disapproval of a final report, U.S. EPA shall specify in writing the deficiencies and reasons for such disapproval and any necessary modifications. Within fourteen (14) days of receipt of such disapproval, Respondent shall have the opportunity to meet with U.S. EPA to discuss the problems with the report and to propose alternatives or suggestions to resolve them. Within fourteen (14) days of the date of this meeting or the receipt of U.S. EPA's disapproval of any report, whichever is later, Respondent shall amend and resubmit a revised report, making the changes to the reports required by U.S. EPA. If the report is approved or approved with modifications it shall be deemed the

approved report. Any subsequent disapproval shall, unless waived by U.S. EPA, be deemed a violation of this Consent Order. U.S. EPA-approved reports shall be deemed incorporated into and part of this Consent Order. If the Respondent does not agree with U.S. EPA modifications to the Plan, the parties shall refer the matter to Dispute Resolution as set forth in Paragraph XVII.

M. Three (3) copies of all documents, including preliminary and final reports, U.S. EPA approvals, U.S. EPA disapprovals, and other correspondence to be submitted pursuant to this Consent Order shall be hand delivered or sent by certified mail, return receipt requested to the Project Coordinators designated pursuant to Section XIV of this Consent Order.

N. Consistent with the objectives of this Consent Order, U.S. EPA may conclude that certain tasks, including investigatory work or engineering evaluation, are necessary in addition to the tasks and deliverables included in the Plans. If such additional work is necessary, U.S. EPA shall request in writing that Respondent perform the additional work and shall specify the basis for U.S. EPA's determination that the additional work is necessary. Within fourteen (14) days after the receipt of such request, Respondent shall have the opportunity to meet with U.S. EPA to discuss the additional work U.S. EPA has requested and proposed alternatives. Within fourteen (14) days of this meeting or the receipt of U.S. EPA's request for additional work, whichever is later, Respondent shall notify U.S. EPA in writing whether it intends to undertake the additional work. Any additional work performed by Respondent under this Paragraph shall be performed in a manner consistent with this Consent Order. If the Respondent does not agree to perform said additional

work, the parties shall refer the matter to Dispute Resolution as set forth in Paragraph XVII.

O. All work performed pursuant to this Consent Order shall be under the direction and supervision of a professional engineer or geologist with expertise in hazardous waste site investigations and remediation. Within thirty (30) days of the effective date of this Consent Order, Respondent shall notify U.S. EPA in writing of the name, title, and qualifications of the engineer or geologist, to be used in carrying out the terms of this Consent Order.

#### VII. QUALITY ASSURANCE

Throughout all sample collection and analysis activities, Respondent shall use U.S. EPA-approved quality assurance, quality control, and chain-of-custody procedures, which shall be part of proposed and approved Plans.

In addition, Respondent shall:

A. Follow the U.S. EPA guidance for sampling and analysis contained in the document entitled "RCRA Groundwater Monitoring Technical Enforcement Guidance Document", September 1986.

B. Notify the U.S. EPA in planning for, and prior to, field sampling and laboratory analysis.

C. Inform the U.S. EPA Project Coordinator in advance which laboratories will be used by Respondent. Laboratories used by Respondent shall provide that U.S. EPA personnel and U.S. EPA-authorized representatives have reasonable access to the laboratories and personnel used for analyses.

D. Laboratories used by Respondent for analyses shall perform such analyses according to U.S. EPA methods (SW-846) or other methods deemed satisfactory to U.S. EPA. If methods other than U.S. EPA methods are to be used, Respondent shall submit all protocols to be used for analyses to U.S. EPA for approval thirty (30) days prior to the commencement of analyses.

E. Laboratories used by Respondent for analyses shall participate in a quality assurance/quality control program equivalent to that which is followed by U.S. EPA. As part of such a program, and upon request by U.S. EPA, such laboratories shall perform analysis of a reasonable number of known samples provided by U.S. EPA to demonstrate the quality of the analytical data.

F. Use U.S. EPA guidance to evaluate all data to be used in the Plans including what is collected prior to U.S. EPA approval of the Plan required by Section VI of this Consent Order. This evaluation shall be provided to U.S. EPA as part of the Plans required by Section VI of this Consent Order, and shall be updated as necessary.

#### VIII. PUBLIC COMMENT AND PARTICIPATION

A. Following proposed modification or proposed approval by U.S. EPA of a Corrective Measure Study Final Report, U.S. EPA shall make both the RCRA Facility Investigation Final Report and the Corrective Measure Study Final Report and U.S. EPA's justification for selecting the proposed remedy available to the public for review and comment for at least forty-five (45) days.

B. Following the public review and comment period, U.S. EPA shall notify Respondent which alternative corrective measure is selected, if any. If the Corrective Measure proposed and tentatively selected by U.S. EPA after review of the Corrective Measure Study Final Report is not the corrective measure approved by U.S. EPA after consideration of public comments, U.S. EPA shall inform Respondent in writing of the reasons for such decision.

C. Final agency action shall occur when Respondent is subject to a final order directing Respondent to implement the measures in the Corrective Measure Study Final Report.

#### IX. CORRECTIVE MEASURE IMPLEMENTATION

If Respondent has complied with the terms of this Consent Order, after selection of the corrective measure, U.S. EPA shall provide a sixty (60) day period for negotiation of a new Administrative Order on Consent for implementation of the corrective measure or such further time as may be mutually agreed upon by the parties. If agreement is not reached during this period, U.S. EPA reserves all rights it has to implement the corrective measure or other remedial response and to take any other appropriate actions under RCRA or any other available legal authority. Respondent reserves all rights it may have in defense of any such U.S. EPA action.

#### X. REPORTING

The obligation to report and the schedule for reporting shall be outlined in the RFI and CMS Work Plans to be submitted pursuant to this Consent Order.



XI. ON-SITE AND OFF-SITE ACCESS

A. U.S. EPA and/or any U.S. EPA representative, including U.S. EPA contractors, are authorized to enter and freely move about all property at the Facility for the purpose of, inter alia: reviewing the conduct of the work performed under the Consent Order and assessing site conditions relevant to this Consent Order; discussions with Facility personnel and contractors engaged in performance of work relevant to the Consent Order after notification of Project Coordinator; inspecting records, operating logs, and contracts related to the Facility; reviewing the progress of the Respondent in carrying out the terms of this Consent Order; conducting such sampling and tests as U.S. EPA or its representatives deem necessary including but not limited to; using a camera, sound recording, or other documentary type equipment; and verifying the reports and data submitted to U.S. EPA by the Respondent. The Respondent shall permit such persons to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data that pertain to work undertaken pursuant to this paragraph, and shall comply with all approved health and safety plans. U.S. EPA representatives shall at entry present identification. They shall also be required to comply with all facility and health and safety requirements consistent with U.S. EPA's obligation under law and the Consent Order. U.S. EPA representatives to the maximum extent possible shall minimize interference with the ongoing operations at the facility.

B. To the extent that work required by the Work Plan must be done on property not owned or controlled by Respondent, Respondent will use reasonable efforts to obtain site access agreements from the present owner(s) of such property within thirty (30) days of approval of the Work Plan. Reasonable

efforts as used in this Section shall include a certified letter from Respondent to the present owners of such property requesting access agreements to permit Respondent and U.S. EPA and its authorized representatives to access such property. Any such access agreement shall be incorporated by reference into this Consent Order. In the event that agreements for site access are not obtained within thirty (30) days of the effective date of this Consent Order, Respondent shall so notify U.S. EPA. In the event U.S. EPA obtains access, Respondent shall undertake U.S. EPA approved work on such property. Nothing in this Section limits or otherwise affects U.S. EPA's right of access and entry pursuant to applicable law. If neither the Respondent nor the U.S. EPA on behalf of Respondent can secure access to property not owned or controlled by Respondent, any work to be performed by Respondent on said property pursuant to the terms of the Consent Order is excused. However, Respondent agrees to perform similar work on other property where access can be obtained if determined to be necessary by U.S. EPA.

#### XII. SAMPLING AND DATA/DOCUMENT AVAILABILITY

A. The Respondent shall make available to U.S. EPA the results of all sampling, tests, or other data generated by or on its behalf with respect to the implementation of this Consent Order. Similarly, upon request, U.S. EPA will make available to Respondent the results of sampling or tests generated pursuant to this Order by U.S. EPA within thirty (30) days after any such results or data pass U.S. EPA quality assurance review.

B. Respondent shall notify U.S. EPA at least ten (10) days before conducting any well drilling, installation of equipment, or sampling. At the request of U.S. EPA, Respondent shall provide or allow U.S. EPA or its

authorized representative to take split samples of all samples collected by Respondent pursuant to this Consent Order. Similarly, at the request of Respondent, U.S. EPA shall allow Respondent or its authorized representatives to take split or duplicate samples of all samples collected by U.S. EPA under this Consent Order. U.S. EPA shall notify Respondent at least ten (10) days before conducting any sampling under this Consent Order.

C. All information and data not subject to a legally recognized privilege shall be available to the public except to the extent that it is determined to be confidential business information. Dispute over confidentiality shall be covered by 40 CFR Part 2. Results of sampling and analysis shall not be deemed confidential.

#### XIII. RECORD PRESERVATION

Respondent agrees that it shall preserve during the pendency of this Consent Order and for a minimum of five (5) years after its termination, all records and documents not subject to a legally recognized privilege in its possession or in the possession of its divisions, employees, agents, or consultants or contractors which relate in any way to hazardous waste management and disposal at the Facility pursuant to this Consent Order. At the conclusion of five (5) years, Respondent shall then make such records available to U.S. EPA for inspection or U.S. EPA's retention or shall at U.S. EPA's request provide copies of any such records to U.S. EPA.

Respondent further agrees that within fifteen (15) days of the effective date of this Consent Order or of retaining or employing an agent, consultant, or contractor, whichever comes first, Respondent will enter into an agreement to be confirmed in writing within thirty (30) days, with its agent, consultants

and/or contractors whereby its agents, consultants, and/or contractors will be required to maintain and preserve during the pendency of this Consent Order for a minimum of five (5) years after its termination, all records and documents within their respective possession which relate to work pursuant to this Consent Order or to hazardous waste management and disposal at the facility relevant to the conditions at the Facility which are the subject of this Consent Order.

#### XIV. PROJECT COORDINATOR

A. On or before the effective date of this Consent Order, the U.S. EPA and Respondent shall each designate a Project Coordinator. Each Project Coordinator shall be responsible for overseeing the implementation of this Consent Order. The U.S. EPA Project Coordinator will be U.S. EPA's designated representative. To the maximum extent possible, all communications between the Respondent and the U.S. EPA, and all documents, reports, approvals and other correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Order, shall be directed through the Project Coordinators.

B. Unless otherwise agreed to by the parties, the parties agree to provide at least thirty (30) days written notice prior to changing Project Coordinators.

C. The absence of the U.S. EPA Project Coordinator from the Facility shall not be cause for the stoppage of work.

XV. NOTIFICATION

Unless otherwise specified, notices or other submissions required under this Consent Order shall be in writing and shall be sent to:

United States Environmental Protection Agency  
Region V  
RCRA Enforcement Branch, 5HR-12  
230 South Dearborn Street  
Chicago, Illinois 60604  
Attention: Sally Averill

Thomas Shingleton  
Ekco Housewares  
P.O. Box 560  
Massillon, Ohio 44648

Timothy McGuinness  
American Home Products Corporation  
685 Third Avenue  
New York, New York 10017

XVI. DELAY IN PERFORMANCE/STIPULATED CIVIL PENALTIES

A. Unless excused under Section XIX, "Force Majeure and Excusable Delay," for each day that the Work Plan, Final and Draft RFI or Final and Draft CMS is overdue, Respondent shall be assessed the sums set forth below as stipulated penalties, except as provided in paragraph E of this Section. Stipulated penalties shall accrue in the following amount:

For the failure to submit the five (5) deliverables as listed in Section A required by this Consent Order, penalties shall accrue in the amount of: \$1,000 per day of delay for one (1) to seven (7) calendar days of delay and \$2,000 per day for each day of delay, or part thereof, thereafter.

B. Any stipulated civil penalties assessed pursuant to this Consent Order shall be payable within sixty (60) days of receipt of notification from U.S. EPA assessing the stipulated civil penalties, unless waived or deferred by U.S. EPA, and shall be paid by certified or cashier's check made payable to the Treasurer of the United States, and shall be remitted to:

United States Environmental Protection Agency, Region V  
P.O. Box 70753  
Chicago, Illinois 60673

A letter describing the basis for the penalties shall accompany the check. Copies of the transmittal of payment shall be sent to the Office of Regional Counsel, U.S. EPA, Region V, 230 South Dearborn Street (5CS-TUB-3), Chicago, Illinois 60604.

C. The stipulated civil penalties set forth in this Section do not preclude U.S. EPA from pursuing any other remedies or sanctions which may be available to U.S. EPA by Respondent's failure to comply with any of the requirements of this Consent Order, nor shall any payment of said penalties relieve Respondent of the responsibility to comply with this Consent Order.

D. Should Respondent fail to comply with a time requirement of any task required by this Consent Order, the period of noncompliance shall terminate upon Respondent's performance of said requirement.

E. If Respondent disputes the basis for imposition of stipulated penalties, the issue shall be resolved under the Dispute Resolution procedures of Section XVII of this Consent Order.

#### XVII. DISPUTE RESOLUTION

A. If Respondent disagrees, in whole or part, with any U.S. EPA disapproval or other decision or directive made by U.S. EPA pursuant to this Consent Order, Respondent shall notify U.S. EPA in writing of its objections and the basis therefore within fifteen (15) calendar days of receipt of U.S. EPA's disapproval, decision, or directive. U.S. EPA and Respondent shall then have an additional thirty (30) calendar days from U.S. EPA's receipt of

Respondent's objections to attempt to resolve the dispute. If agreement is reached, the resolution shall be reduced to writing, signed by representatives of each party and incorporated into this Consent Order.

If the parties are unable to reach agreement within this thirty (30) day period, U.S. EPA shall resolve the dispute based upon and consistent with the terms of this Consent Order, and shall provide a written statement of its decision to Respondent which shall be incorporated into this Consent Order.

B. During the pendency of dispute resolution procedures set forth in this Section, the time period for completion of work and/or obligations to be performed under this Consent Order, which are affected by such dispute, may be extended upon agreement of all parties for a period of time not to exceed the actual time taken to resolve the dispute. Elements of the work and/or obligations not affected by the dispute shall be completed in accordance with the schedule contained in the RI/FS Work Plan, and/or the time period required for implementation of any corrective action.

C. Alternative Dispute Resolution for Additional Work and Additional Interim Measures

If Respondent objects to a U.S. EPA requirement to undertake additional work or additional interim measures pursuant to Section VI of the Consent Order, it shall invoke the dispute resolution procedures outlined in paragraphs A and B above. If Respondent disagrees with the resolution of the dispute over additional work or additional interim measures pursuant to the procedures outlined in paragraphs A and B above, the Respondent shall so notify the U.S. EPA by certified mail within five (5) business days of the resolution of the dispute. Within five (5) business days of Respondent's

notification to U.S. EPA, U.S. EPA shall submit all documents submitted by Respondent in connection with resolution of the dispute and all other relevant documentation to a U.S. EPA technical representative who has had no prior connection with this matter (the "Technical Reviewer"). The Technical Reviewer shall promptly review said documentation and advise whether it concurs in the resolution of the dispute. The review by the Technical Reviewer shall be nonbinding and shall not be admissible in any judicial or administrative proceeding. Upon completion of the Technical Reviewer's review, he/she shall communicate his/her decision to the Project Coordinator, and the Region shall notify Respondent in writing whether its resolution of the dispute will be modified. Unless modified, the dispute shall be resolved in the manner provided in paragraphs A and B of this Section. Any modification will be deemed incorporated into this Consent Order. The terms of this Paragraph C shall apply only to disputes regarding additional work or additional interim measures.

#### XVIII. FORCE MAJEURE AND EXCUSABLE DELAY

Respondent's activities under this Consent Order shall be performed within the time limits established herein unless performance is excused or delayed by events which constitute a force majeure.

For purposes of this Consent Order, a force majeure event is an event arising from causes beyond Respondent's reasonable control which delays the performance of work required under this Order.

The Respondent shall notify U.S. EPA orally as soon as possible but no later than two (2) business days after the Respondent knew or should have known of any delay or anticipated delay in compliance with the requirements of



this Consent Order, and in writing no later than five (5) business days after the oral notification of the day. The written notice shall describe fully the nature of the delay, whether and why the delay is beyond the control of the Respondent, the actions taken and/or that will be taken to mitigate, prevent and/or minimize further delay, and the anticipated length of delay. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay.

Delays that result from causes beyond the Respondent's reasonable control shall not be violation of its obligation under this Consent Order, and shall not make the Respondent liable for the Stipulated Civil Penalties contained in Section XVI of this Consent Order. To the extent a delay is caused by circumstances beyond the control of the Respondent, the schedule affected by the delay shall be extended for a period equal to the delay resulting from such circumstances.

In the event that U.S. EPA and the Respondent cannot agree that any delay in compliance with the requirements of this Consent Order, including the failure to submit any report or document, has been or will be caused by circumstances beyond the control of the Respondent, the dispute shall be resolved in accordance with the provisions of Section XVII of this Consent Order.

#### XIX. RESERVATION OF RIGHTS

A. The parties expressly reserve all rights and defenses that they may have, including the right both to disapprove of work performed by Respondent and to request that Respondent perform tasks in addition to those stated in the Work Plan.

B. Compliance by Respondent with the terms of this Consent Order shall not relieve Respondent of its obligations to comply with RCRA or any other applicable State or Federal law.

C. U.S. EPA reserves the right to take any action pursuant to RCRA or any other available legal authority, including without limitation, the right to seek remedial or removal action, injunctive relief to compel compliance with this Consent Order, for cost recovery, for monetary penalties, and for punitive damages. Respondent reserves all rights it may have in defense of any such U.S. EPA action.

D. U.S. EPA reserves the right to perform any portion of the work consented to herein or any additional site characterization, feasibility study, and response/corrective actions as it deems necessary to protect human health or welfare or the environment. U.S. EPA will not perform work consented to herein if Respondent is performing said work in a timely and satisfactory manner. In any event, U.S. EPA reserves any right it may have to seek reimbursement from Respondent for such additional costs incurred by the United States. The Respondent reserves any right it may have to contest the U.S. EPA's right to seek reimbursement. Notwithstanding compliance with the terms of this Consent Order, Respondent is not released from liability, if any, for the costs of any response actions taken by U.S. EPA pursuant to available statutory authority.

#### XX. OTHER CLAIMS AND PARTIES

Nothing in this Consent Order shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against

any person, firm, partnership, or corporation not a signatory of this Consent Order for any liability it may have arising out of, or relating in any way to, the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

XXI. OTHER APPLICABLE LAWS

All action undertaken by the Respondent pursuant to this Consent Order shall be undertaken with the substantive requirements of all applicable local, State, and Federal laws and regulations.

XXII. INDEMNIFICATION OF THE UNITED STATES GOVERNMENT

A. Respondent agrees to indemnify, save, and hold harmless the United States Government, its agencies, departments, agents, and employees, from any and all claims or causes of action arising from or on account of acts or omissions of the Respondent, its agents, independent contractors, receivers, trustees, and assigns, in carrying out the activities required by this Consent Order. This indemnification shall not be construed in any way as affecting or limiting the rights or obligations of Respondent or the United States under their various contracts.

B. Respondent by this agreement does not assume any liability arising from the acts or omissions of U.S. EPA or its agencies, departments, agents, and employees during the course of any activities conducted pursuant to this Consent Order.

XXIII. COVENANT NOT TO SUE

From the effective date of this Consent Order, for as long as the terms herein are complied with, and in consideration of Respondent's agreement to undertake the tasks set forth in this Consent Order, and conditioned upon Respondent's satisfactory performance of the work in accordance with the terms of this Consent Order, U.S. EPA hereby covenants not to sue or bring any civil or judicial or administrative action against Respondent for work satisfactorily performed.

XXIV. NON-ADMISSION OF LIABILITY

Except as to the agreement to comply with the terms and provisions of this Consent Order, entry into this Consent Order shall not constitute an admission, adjudication, or waiver of any right or defense of Ekco Housewares, Inc., with respect to any present or future alleged liability for conditions at or near the site, or of any fact, conclusion of law, or determination arising out of any present or future alleged liability to any person on the part of Ekco Housewares, Inc., its officer, directors, agents, servants, employees, predecessor, successors, contractors, and assigns, and any persons, firms, subsidiaries, divisions, and corporations acting under or for it. This Consent Order shall not be construed to confer any rights upon any party not a signatory. The Consent Order and the Respondent's performance hereunder shall not create any private rights.

XXV. SUBSEQUENT MODIFICATION

A. This Consent Order may be amended by mutual agreement of U.S. EPA and Respondent. Such amendments shall be in writing, shall have as their

effective date the date on which they are signed by both parties, and shall be incorporated into this Consent Order.

B. Any reports, plans, specifications, schedules, and attachments required by this Consent Order are, upon approval by U.S. EPA, incorporated into this Consent Order. Any non-compliance with such U.S. EPA-approved reports, plans, specifications, schedules, and attachments shall be considered a failure to achieve the requirements of this Consent Order and shall subject Respondent to the penalty provisions included in Section XVII of this Consent Order and/or other sanctions.

C. No informal advice, guidance, suggestions, or comments by the U.S. EPA regarding reports, plans, specifications, schedules or any other writing submitted by the Respondent may be construed as relieving the Respondent of its obligation to obtain written approval, if and when required by this Consent Order.

#### XXVI. TERMINATION AND SATISFACTION

The provisions of this Consent Order shall be deemed satisfied upon Respondent's receipt of written notice from the U.S. EPA that Respondent has demonstrated that all the terms of this Consent Order, including any additional work, modifications, or amendments have been completed in accordance with the terms thereof to the satisfaction of the U.S. EPA. Upon such demonstration by the Respondent, said written notice shall not be unreasonably withheld or delayed.

IT IS SO AGREED:

BY: Jeffrey A. Weinstein  
EKCO Housewares, Inc. (Respondent)

March 31, 1989  
Date

BY: David A. Ullrich  
U.S. Environmental Protection Agency

April 13, 1989  
Date

IT BEING SO AGREED, IT IS HEREBY ORDERED THIS 14<sup>th</sup> DAY OF

April, 1988 <sup>gmc</sup>

Francis M. Adamkus  
for Valdas V. Adamkus  
Regional Administrator  
U.S. EPA, Region V

IN THE MATTER OF:

EKCO HOUSEWARES, INC.  
359 State Extension, N.W.  
Massillon, Ohio 44643

U.S. EPA I.D.# OHD 5 205 424  
ADMINISTRATIVE ORDER

ATTACHMENT I

FINAL

INTERIM MEASURES REPORT  
FOR EKCO HOUSEWARES, INC.  
MASSILLON, OHIO

INTERIM MEASURES PLAN FOR  
RECOMMENDED ADDITIONAL  
INTERIM MEASURES

8 February 1988

Prepared By:

ROY F. WESTON, INC...  
Weston Way  
West Chester, Pennsylvania 19380

**TABLE OF CONTENTS**

<u>Section</u>	<u>Title</u>	<u>Page</u>
1	INTRODUCTION	1
	1.1 Interim Activities: Purpose and Scope of Work	1
	1.2 Plant Location	1
	1.3 Plant History	2
2	INTERIM ACTIVITIES	6
	2.1 Ground Water Sampling of Ohio Water Service Company Well No. 4	6
	2.2 Regional Ground Water Flow Conditions	7
	2.3 Local Ground Water Flow Conditions	8
	2.4 Ground Water use within the Study Area	8
	2.5 Monitoring and Production Well Sampling on the EKCO Property	9
3	RESULTS OF INTERIM ACTIVITIES	11
	3.1 Results of Ohio Water Service Company Well No. 4 Ground Water Sample	11
	3.2 Regional Physiography, Soils, Geology and Hydrology	11
	3.3 Local Ground Water Flow Direction	14
	3.4 Identification and Location of Ground Water Supply Wells Within a One-Mile Radius of the Site	14
	3.5 Results of Well Sampling on the EKCO Property	17
4	CONCLUSIONS AND RECOMMENDATIONS	20
	REFERENCES	22





## LIST OF FIGURES

<u>Figure</u>	<u>Title</u>	<u>Page</u>
1	Site Location Map EKCO Facility, Massillon, Ohio	2
2	Site Diagram EKCO Housewares Plant	4
3	Groundwater Resources of Massillon, Ohio	13
4	Contour of Bedrock Water Elevation at the EKCO Site	15
5	Water Supply Map Within One-Mile Radius of the EKCO Facility Boundary	16
6	Volatile Organic Compounds (VOCs) Ground Water Sampling Analytical Results EKCO Facility, Massillon, Ohio	19

## LIST OF TABLES

<u>Table</u>	<u>Title</u>	<u>Page</u>
1	Results of 3 September 1987 Ohio Water Service Company Well No. 4 Ground Ground Water Sample	12
2	Results of 23 September 1987 Production and Monitoring Well Samplings at the EKCO Site	18

## LIST OF ATTACHMENTS

- Attachment A - Correspondence With Ohio Water Service
- Attachment B - Proposed Piezometer Construction
- Attachment C - Schedule for Implementation of Additional Interim Measures

## LIST OF APPENDICES

- Appendix A - Analytical Report

**SECTION 1****INTRODUCTION****1.1 INTERIM ACTIVITIES: PURPOSE AND SCOPE OF WORK**

The purpose of the interim activities was to address immediate concerns expressed by U.S. EPA, Region V, relating to potential impacts of contaminants in ground water on area water supplies. This information will also be used to develop a ground water assessment plan as a part of the closure plan for the Evaporation Lagoon facility (particularly, in reference to 40 CFR Section 265.93).

The tasks performed in the interim activities included:

- o Collecting and analyzing a water sample from the abandoned Ohio Water Service Company Well No. 4 for Target Compound List (TCL) volatile organics.
- o Reviewing area geology and ground water conditions and estimating the ground water flow directions within a one-mile radius of the facility based on the available geologic and hydrologic information.
- o Determining local ground water flow conditions and directions beneath the site.
- o Conducting a ground water utilization survey which identified and located potable and commercial water wells within a one-mile radius from the plants' facility.
- o Sampling of plant monitoring and production wells for Target Compound List (TCL) volatile organics.

The first three tasks were performed during the weeks of 31 August 1987 and 7 September 1987. The plant monitoring and production wells were sampled during the week of 21 September. These activities are further described in Section 2.

**1.2 PLANT LOCATION**

The EKCO Housewares, Inc. facility occupies approximately 13 acres on 3rd Street NW in the town of Massillon, Stark

County, Ohio. Figure 1 is a map of a portion of Stark County locating the site. The area surrounding the site is largely urban and industrial. The EKCO property is approximately 1,500 feet west of the Tuscarawas River and is bordered by Newman Creek to the north and Penn Central and Baltimore and Ohio Railroads to the west and east, respectively. Figure 2 illustrates the extent of the EKCO Housewares Property.

### 1.3 PLANT HISTORY

Since 1943, the Massillon EKCO Housewares facility has been manufacturing aluminum and stainless steel cookware. By 1951, with the United States involvement in the Korean Conflict, the plant was manufacturing 90mm and 105mm shell casings for the military. During this time, increase in production necessitated the drilling of two production wells (W-1 and W-2) at the facility. In approximately 1953, an evaporation lagoon was constructed along the northern property boundary adjacent to Newman Creek. Sludge from the waste treatment of the military production was discharged to the lagoon.

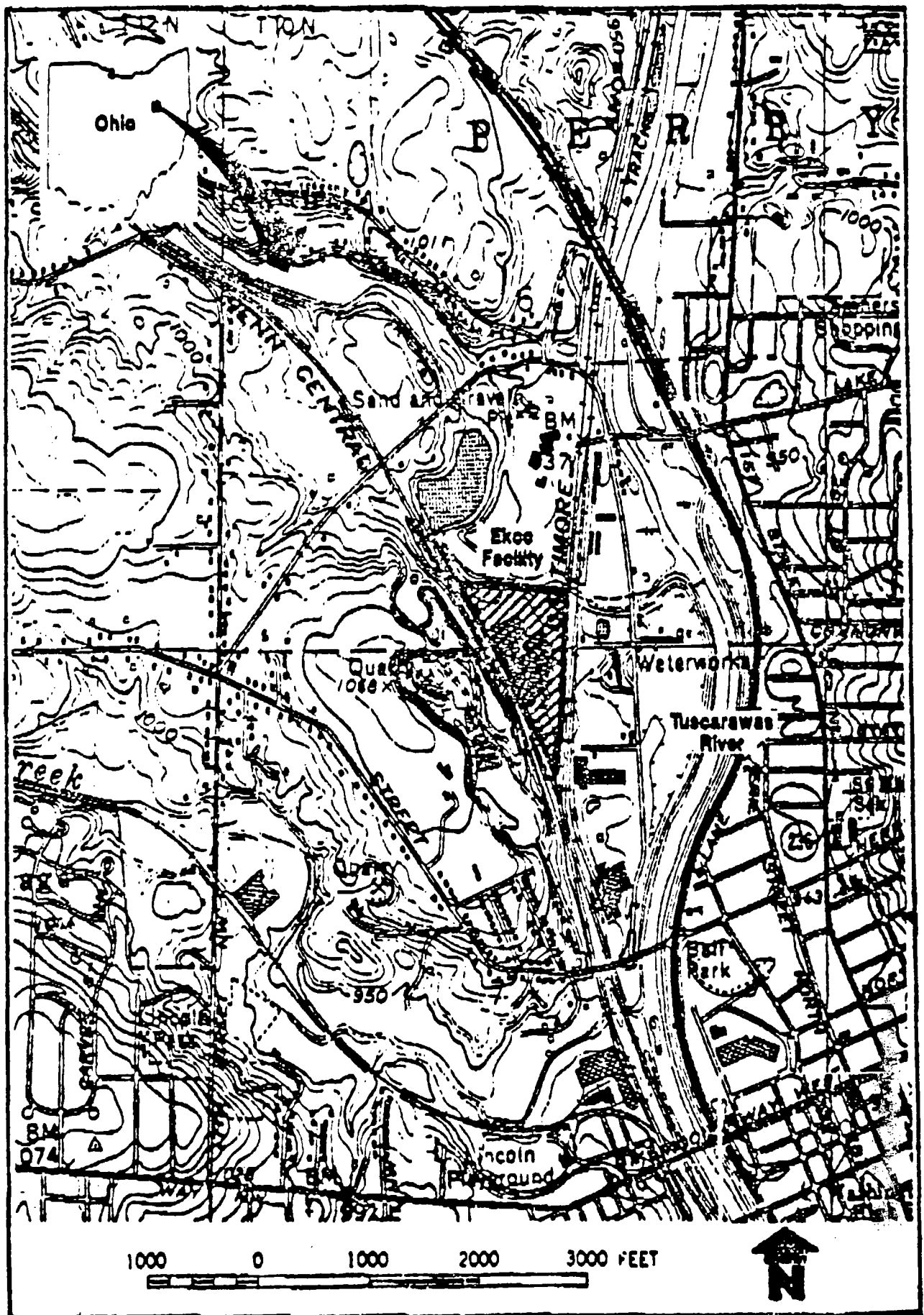
In 1969, with the development of new regulations and permit requirements, the evaporation lagoon was approved and permitted by the State of Ohio to discharge liquid waste products associated with plant activities. These waste products have included:

- o Deionizers from copper plating operations (hydrochloric acid and sodium hydroxide).
- o Washings and waste material from manufacturing porcelain-taflon coated aluminum cookware (aluminum frit, various coloring inorganics oxides, lead, cadmium, selenium, cobalt, and toluene).
- o Alkaline washer fluids to clean aluminum cookware.

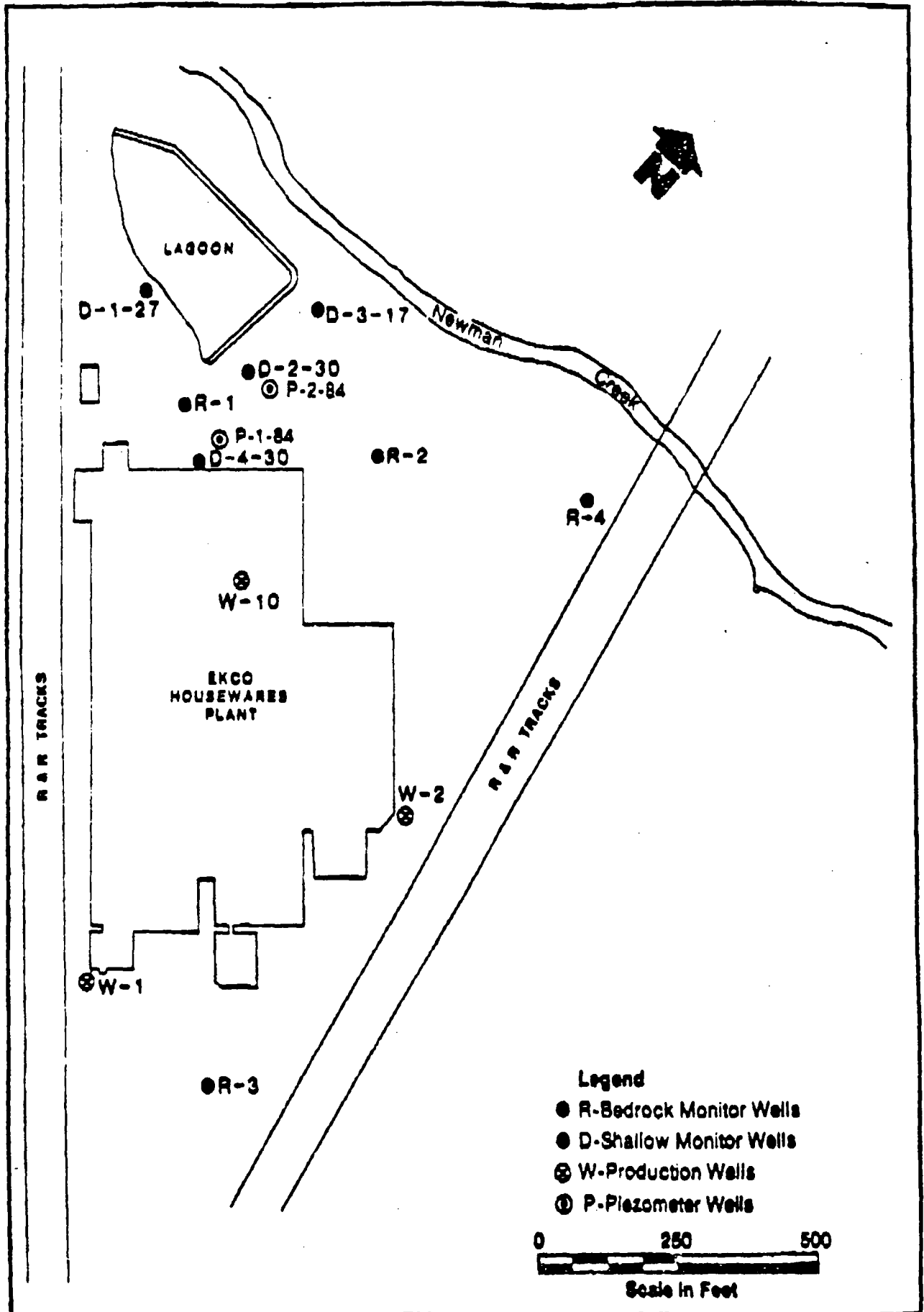
Due to the discontinued manufacturing of aluminum porcelain cookware, the lagoon was not used after 1977 except for housing degreaser filter water in 1980 to mid-1984.

In March 1984, when the plant applied for a renewal of a NPDES Permit, the law required the analysis of on-site well water for volatile organic compounds (VOCs). The analysis

**WESTON**



**FIGURE 1 SITE LOCATION MAP**  
**EKCO HOUSEWARES, INC., MASSILLON, OHIO**  
(Rel. 7.5 Minute Massillon Quad, Ohio, 1978)



**FIGURE 2 SITE DIAGRAM WITH LOCATIONS OF PRODUCTION AND MONITORING WELLS  
EKCO HOUSEWARES, INC., MASSILLON, OHIO**

indicated 1,1,1 Trichloroethane (TCA) and Trichloroethylene (TCE). TCA and TCE have historically been used at the plant to clean both stainless steel cookware and metal bakeware.

In 1984, with the discovery of TCA and TCE in the ground water beneath the plant, four 6-inch bedrock monitoring wells and two 1 1/4-inch piezometers which were drilled into the overburden were installed at the site. The locations of these wells can be seen on Figure 2. The monitoring wells were sampled along with the three on-site plant production wells (W-1, W-2 and W-10) and a municipal production well located approximately 1,000 feet east of the plant (Ohio Water Service Company Well No. 4). Several volatile organic compounds on the EPA's Target Compounds List (TCL) were detected including TCE, TCA, vinyl chloride and dichloroethylene. The municipal well was subsequently taken out of service and converted to a 5-inch monitoring well. Four additional 1 1/2-inch monitoring wells were later installed into the overburden around the lagoon in January 1987.

Since early 1985, EKCO, with approval from the Ohio EPA, has conducted a ground water recovery program which includes continual pumping of ground water from two production wells and treatment of that water at an on-site air stripper. Some of this water is used in plant processes. Discharge is ultimately to Newman Creek under a NPDES permit. In their letter of 23 April 1985, Ohio EPA outlined reporting requirements for production well monitoring, air stripper emissions monitoring, monitor well sampling, water level monitoring, and city well sampling. The agency also stated that the cleanup of contaminated soils (outside of the lagoon) through natural flushing of the soils and eventual recovery of ground water is a "viable approach," if effective.

WESTON was retained to design and implement a ground water assessment plan for the Massillon EKCO site. The assessment would include an evaluation of contaminant migration and the immediate risk of off-site migration to downgradient wells.

**SECTION 2****INTERIM ACTIVITIES**

Interim activities were conducted at the Massillon EXCO site to satisfy the interim objectives as stated in Section 1. The five work tasks are described in the following subsections.

**2.1 GROUND WATER SAMPLING OF OHIO WATER SERVICE  
COMPANY WELL NO. 4**

A ground water sample was collected from Ohio Water Service Company abandoned Well No. 4 on 3 September 1987 and was analyzed for TCL volatile organic compounds.

Prior to sampling, specific information on well construction, was obtained from the Ohio Water Service Company. Originally, the well was 165 feet deep and the diameter and length of the screen was 18 inches and 40 feet, respectively. After abandonment, the well was completed as a 5-inch monitoring well cased to 140 feet and screened from 140 to 150 feet below ground surface. The annulus between the original and new screens was completely packed with pea gravel.

The specific procedures used to sample the well were as follows:

- o The submersible pump used to purge the well was pre-cleaned, prior to its arrival on-site, by pumping an Alconox wash followed by two potable water rinses through the unit. On the day of sampling, the unit received an additional tap water rinse followed by a deionized water rinse.
- o The depth to water was measured (18.75 feet below top of casing) and the volume of water in the well was determined for the purpose of purging.
- o The pump was lowered to a depth of 50 feet below top of casing so as to allow for drawdown during purging. The well was pumped for 45 minutes at a rate of 10 gallons per minute.
- o Since a pumping rate of 10 gallons per minute did not produce a significant drawdown, the pump was

raised to a depth of 20 feet below the top of the casing. This insured complete purging of the well by inducing water flow from the screen to pump intake level.

- o The well was pumped for a total of 5 hours giving a total evacuation volume of 3,000 gallons (3.8 well volumes).
- o Prior to sampling, a Teflon bailer was decontaminated using the same decontamination procedures as outlined for the submersible pump.
- o Clean, unused, polypropylene rope was tied to the end of the bailer and both were inserted into the well.
- o The following five samples for volatile organic analysis were collected:
  - #1 - well sample
  - #2 - duplicate well sample
  - #3 - field blank
  - #4 - matrix spike
  - #5 - matrix spike duplicate
- o A trip blank was prepared and provided by WESTON Analytical Laboratories. The blank traveled with the glassware to the site and with the samples during shipment.
- o Once collected and after insuring that no air bubbles were present, the samples were immediately placed on ice and entered on a chain of custody form to await shipment. The samples and chain of custody form were packaged according to D.O.T. regulations and shipped via Federal Express to WESTON Analytics, Lionville, Pennsylvania.

## **2.2 REGIONAL GROUND WATER FLOW CONDITIONS**

Regional ground water flow directions were determined by obtaining references from the Ohio Department of Natural Resources. These references include publications of the following:

- o Regional geology and geologic maps.



- o Underground water resources for the basins and water sheds in the Massillon area.
- o Water quality and use in Ohio.
- o Surface drainage maps of Ohio.
- o Soil survey for Stark County.
- o Low flow frequencies and storage requirements for Ohio streams.
- o Ground water levels in Ohio.

### **2.3 LOCAL GROUND WATER FLOW CONDITIONS**

The ground water flow direction beneath the site was determined by:

- o Identifying the relative elevation at the top of the inner casing of all on-site production and monitoring wells.
- o Measuring the depth to water from the top of the inner casing.
- o Calculating the elevation of the ground water beneath the site.
- o Contouring points of equal elevation of the ground water beneath the site.

### **2.4 GROUND WATER USE WITHIN THE STUDY AREA**

Potable water wells and industrial-use wells within a one-mile radius of the site were identified with the help of:

- o Well records filed at the Ohio Department of Natural Resources for the permitted wells within the study area.
- o An interview with a local well drilling firm. If available, well logs, well construction diagrams, and well locations for all the wells in the study area that the drilling firm had installed were obtained.

- o A visit to the Ohio Water Service Company which revealed locations of residences who do not use public water within a one-mile radius of the site. The water company also provided information on the municipal, industrial and commercial wells within a one-mile radius of the site.
- o A 1985 aerial photograph. Residential houses surrounding the site were located from the photograph to a county tax map. The map was provided to the Ohio Water Service for confirmation of the presences or absence of domestic wells at the specified locations.

## **2.5 MONITORING AND PRODUCTION WELL SAMPLING ON THE EKCO PROPERTY**

The monitoring wells (R-1 thru R-4, D-1-27, D-2-30, D-3-17, D-4-30, W-1 and W-10) at the Massillon EKCO site were sampled on 23 September 1987 in order to obtain baseline information for the development of the Ground Water Assessment Plan. The ground water samples were analyzed for full TCL parameters.

The specific procedures used to sample wells D-1-27 thru D-4-30 were as follows:

- o The depth to water was measured and the volume of water in the wells was determined for the purpose of purging.
- o The dedicated bailers in the wells were used to evacuate three well volumes.
- o Purge water was placed in an on-site tanker.
- o The wells were allowed to recover overnight.
- o Samples were taken directly from the dedicated bailers.

The specific procedures used to sample wells R-1 thru R-4 were as follows:

- o The depth to water was measured and the volume of water in the wells was determined for the purpose of purging.

- o The dedicated pumps in the wells were turned on and three well volumes were evacuated.
- o Purge water was discharged directly into an on-site tanker.
- o The wells were allowed to recover overnight.
- o Samples were taken directly from the pump outlets.

The specific procedures used to sample production wells W-1 and W-10 were as follows:

- o The depth to water was measured.
- o Since the wells are continuously running, no purging was necessary.
- o Samples were taken directly from the well tap.

**SECTION 3****RESULTS OF THE INTERIM ACTIVITIES****3.1 RESULTS OF OHIO WATER SERVICE COMPANY WELL NO. 4  
GROUND WATER SAMPLE**

The results of the sample collected on 3 September 1987 from the Ohio Water Services Company well No. 4 are shown in Table 1. This table also contains the QA/QC sample results (the sample duplicate, matrix spike, matrix spike duplicate, field blank and trip blank, respectively). The quantification of volatiles was by the purge and trap GC-Hall detection method as described in EPA Method 601.

**3.2 REGIONAL PHYSIOGRAPHY, SOILS, GEOLOGY AND HYDROLOGY**

Stark County lies within the Muskingum River basin and within the Allegheny Plateau province in its entirety. The line of glaciation marking the farthest southward advance of the ice sheets extends to the southern edges of the county. The glaciated area is generally gently rolling with some flat topography.

The soils in the area belong to the Chili-Wheeling-Shoal association which formed in silty deposits underlain by sands and gravels. They are light colored and well drained soils and are nearly level to gently sloping. Just west of the site lies relatively thick, permeable glacial deposits of sand and gravel along the Tuscarawas River. Yields of more than 1,000 gallons per minute have been developed from wells installed in these deposits.

The bedrock beneath the area consists of interbedded sandstones and shales belonging to the Pottsville group of Pennsylvanian age. The bedrock dips generally to the southeast at about 20 to 40 feet per mile. Yields of as much as 500 gallons per minute have been reported from this bedrock, however, regional yield seldom exceeds 15 gallons per minute.

Figure 3 illustrates the water resources in the area surrounding the site. Since bedrock dips toward the southeast and the Tuscarawas River lies approximately 1,500 feet southeast of the site, the regional ground water flow

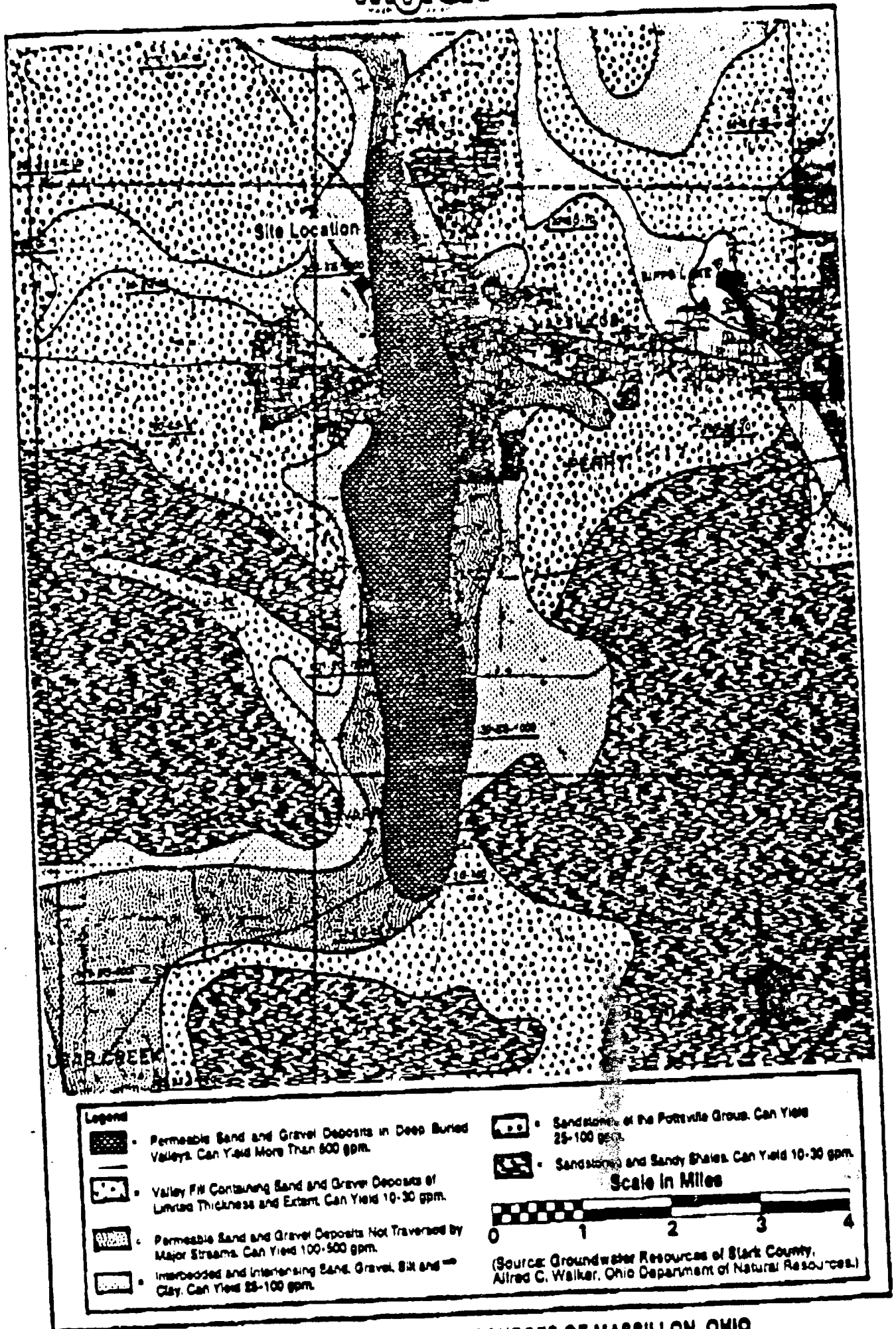
TABLE 1

RESULTS OF 3 SEPTEMBER 1987 OHIO WATER SERVICE COMPANY  
WELL NO. 4 GROUND WATER SAMPLE  
(ug/l)

	WELL #4	WELL #4 DUP	WELL #4 MATRIX SPIKE	WELL #4 MATRIX SPIKE DUP	FIELD BLANK	TRIP BLANK
Benzene	4.6	4.7	90%	97%	---	---
Chloroform	---	---	---	---	3.2	3.1
Tetrachloroethene	---	---	1.8	1.8	---	---
Trichlorofluoromethane	1.2	1.3	1.2	1.2	1.5	1.3
Vinyl Chloride	2.5	2.9	2.3	2.5	---	---

--- = Analyzed, not detected

WESTON



**FIGURE 3 GROUNDWATER RESOURCES OF MASSILLON, OHIO**

direction is to the southeast towards the Tuscarawas River. Ground water that discharges from the bedrock aquifers to the buried glacial sediments would have a southern flow component, approximately parallel to the flow of the Tuscarawas River.

### 3.3 LOCAL GROUND WATER FLOW DIRECTION

The water level data indicates that the ground water beneath the site lies in two distinct zones;

- o The ground water piezometric surface in Zone 1 occurs from 8 to 26 feet below the ground surface in the wells installed in the unconsolidated sediments.
- o The ground water piezometric surface in Zone 2 occurs from 22 to 52 feet below the ground surface in the wells installed in the Pottsville Sandstone.

Analysis of the ground water elevations in the shallower wells (Zone 1) indicates that the ground water flow direction is to the southeast, parallel to Newman Creek and towards the Tuscarawas River.

Figure 4 was generated using the ground water elevations for the wells installed in the Pottsville Sandstone. From this, it is difficult to determine the natural ground water flow direction because the major withdraws from W-1 and W-10 are causing a cone of depression and the ground water to flow radially toward the center of the site (to W-10).

### 3.4 IDENTIFICATION AND LOCATION OF GROUND WATER SUPPLY WELLS WITHIN A ONE-MILE RADIUS OF THE SITE

The known or inferred locations of potable water wells within a one-mile radius of the site were identified and are located in Figure 5. Included in this figure are areas where domestic wells are most likely to be present, and locations of commercial, and municipal wells. Written opinion concerning the absence of potable wells lying between the river and the areas just south, southeast and east of the site was obtained from the Ohio Water Service Company (see Attachment A).

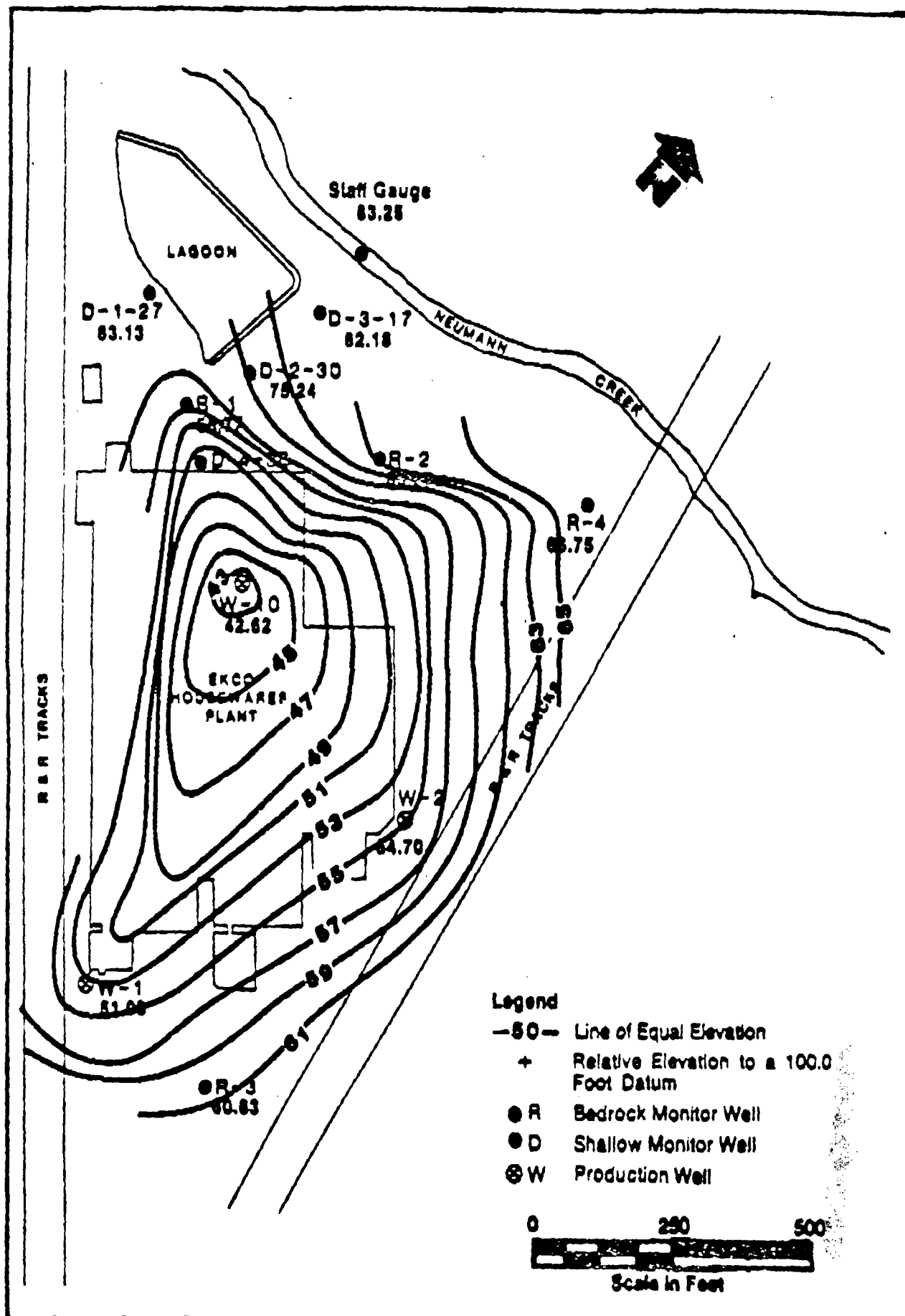
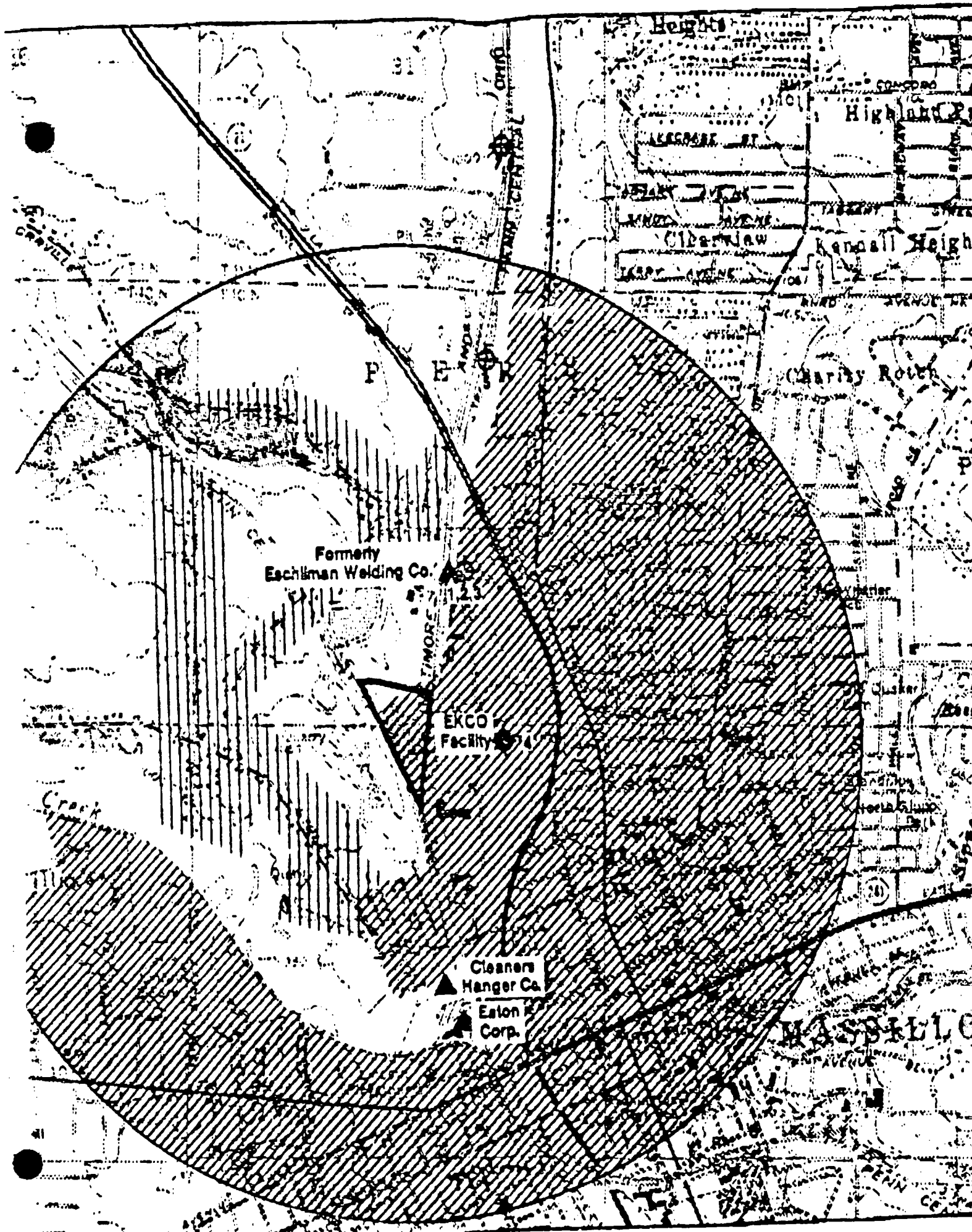


FIGURE 4 CONTOUR OF BEDROCK GROUNDWATER ELEVATIONS +  
EKCO HOUSEWARES, INC., MASSILLON, OHIO





Since ground water is generally flowing to the southeast, it can be seen from Figure 4 that only two commercial wells lying approximately 2500 feet south of the site are potential receptors of contamination migration.

When comparing Figures 3 and 5, it can be seen that the Ohio Water Service production wells draw from a highly permeable sand and gravel aquifer and have the capability of yielding over 500 gallons per minute. The locations of the downgradient commercial production wells directly overlie interbedded and interlensing, less permeable sands, gravels, silts and clays which yield only 25 to 100 gallons per minute. Finally, the areas containing residential wells overlie the sandstones of the Pottsville group and valley fill sand and gravel deposits. These latter water bearing units have the capacity of yielding between 10 and 100 gallons of water per minute.

### 3.5 RESULTS OF PRODUCTION AND MONITORING WELL SAMPLES ON THE EKCO PROPERTY

The results of the 23 September 1987 plant production and monitoring well sampling can be seen in Table 2. Figure 6 illustrates the concentrations of total volatile organic compounds, TCE and vinyl chloride in the corresponding wells.

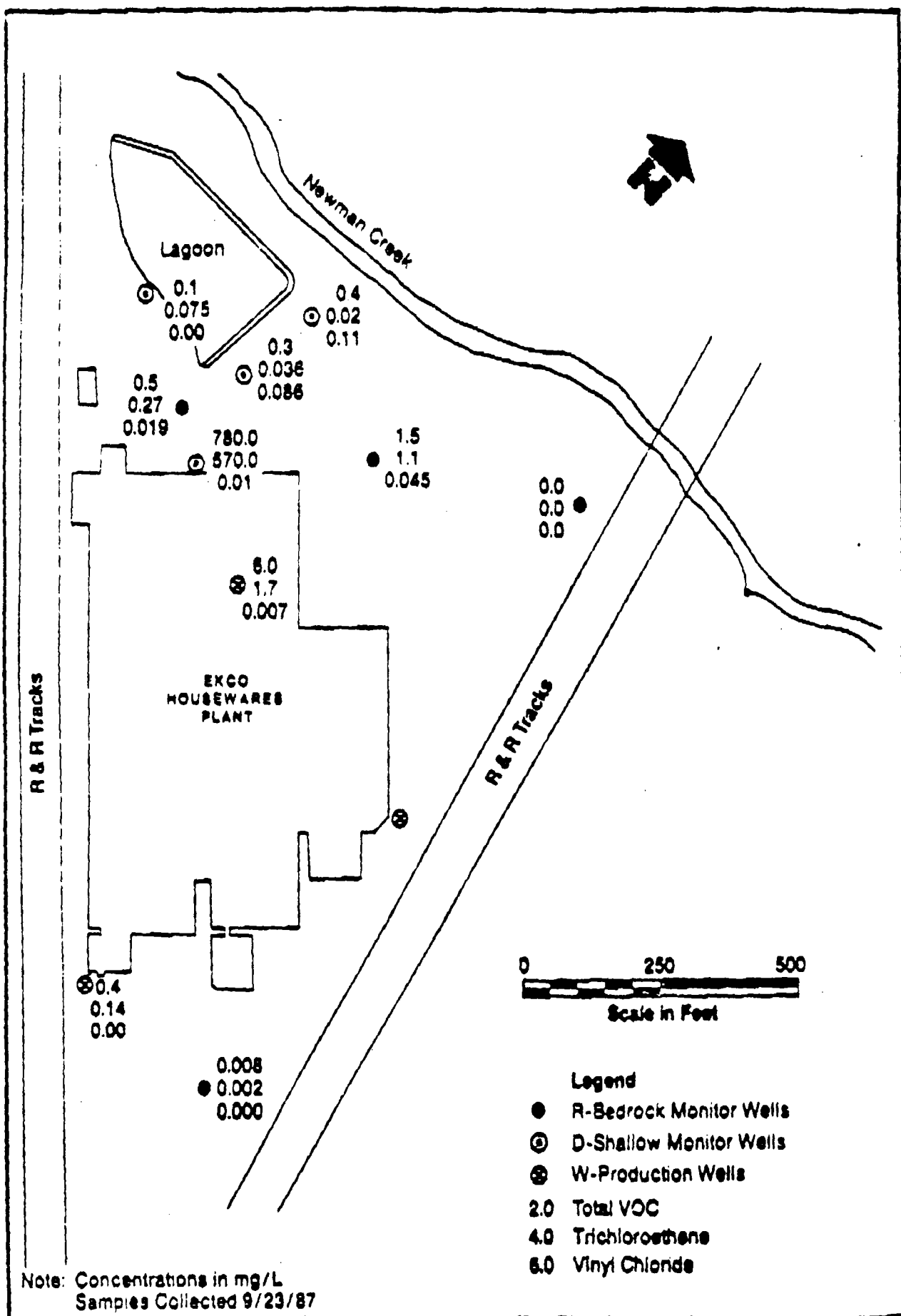
TABLE 2

RESULTS OF 23 SEPTEMBER 1987 PRODUCTION AND MONITORING WELL  
 SAMPLES AT THE EXCO SITE  
 (ug/l)

	R-1	R-2	R-3	R-4	R-5	M-1	M-10	M-100	D-1-2	D-2-10	D-3-17	D-4-18
Acetone		12						110				26
2-Butanone												95
Carbon Disulfide												13
Carbon Tetrachloride												220
Chloroform												13
Chloroethane												23
1,1-Dichloroethane	15		4J			130	100	160	4J	97	160	8400
1,2-Dichloroethane		75						5				100
1,1-Dichloroethene	6	11				16	160	110		5	1J	20000
Methylene Chloride	3JB	3JB	4JB	4JB	3JB	3JB	4JB	50	3JB	3JB	3JB	190
Toluene							1J	2J				
Trans-1,2-Dichloroethene	65	200				17	110	84	4J	100	54	210
1,1,1-Trichloroethane	84	41	2J			100	3000	4500	10	9	10	180000
Trichloroethane	270	1100	2J			140	1700	2100	750	36	16	57000
1,1,2 Trichloroethane												130
Vinyl Chloride	19	45					7J			86	110	10

J = Indicates an estimated value

B = Indicates that the analyte was detected in the blank and sample



**FIGURE 6 VOLATILE ORGANIC COMPOUNDS (VOC)  
GROUNDWATER SAMPLING ANALYTICAL RESULTS  
EKCO HOUSEWARES, INC., MASSILLON, OHIO**

## SECTION 4

### CONCLUSIONS AND RECOMMENDATIONS

The major purpose of the Interim Report is to determine whether an immediate risk to human health exists because of known or potential ground water contamination associated with the EKCO plant. Based on the results presented in the previous section the following conclusions are made:

- o HSL volatile organic compounds were identified beneath the facility. No other HSL compounds were found in elevated concentrations in the on-site wells.
- o The sample from Ohio Water Service Well Number 4 contained low concentrations (<10 ug/l) of volatile organic vinyl chloride, trichlorofluoromethane and benzene. The source of these compounds is not presently known.
- o No present ground water use for potable supply was identified within one mile downgradient of the EKCO facility. However, the upgradient Ohio water service wells 1, 2, 3 have recently increased total withdrawal to as much as 6.5 mgd.
- o Present pumping of W-10 at the EKCO plant is providing at least partial containment of the plume. The degree of contamination is not known.

Based on these findings, hydraulic containment will be maximized as an interim measure prior to the execution of the full ground water assessment. EKCO has determined that it is possible to increase pumping at W-10 which is now pumping at a rate much lower than stripper capacity. The well has been tested to determine what increased capacity it can maintain. Installation of a 400 gpm pump is underway by EKCO. Completion is expected by the end of February, 1988.

Three piezometers will be installed to monitor water levels and determine the hydraulic gradient in the unconsolidated sediments between the plant and Ohio Water Service Wells 1, 2, and 3. Installation of these piezometers is dependent upon securing access to the necessary adjacent property. Certified letters have been sent to the property owners requesting access. No positive responses have yet been received.

Piezometers will be constructed of 2-inch diameter screen and riser with 20 feet of stainless steel screen set 15 feet into the water table. The top of the casings will be surveyed for elevation. Locations are:

- o One piezometer adjacent to monitor well R-4.
- o One piezometer approximately 500 feet north of R-4, in line with Ohio Water Service Company Well Numbers 1, 2, and 3.
- o One piezometer between R-4 and Ohio Service Well 4.

Attachment B contains a detailed discussion of the proposed piezometer construction.

Lastly, in response to the above noted conditions and agency concerns, water supply wells 1, 2, 3, and 5 will be sampled for VOC's. Sampling will be on a monthly basis, until the ground water assessment indicates that no impact to these wells exists from the EKCO property.

A schedule for implementation of these additional measures is attached as Attachment C.

**REFERENCES**

- o Inventory of Ohio Soils, Stark County Progress Report No. 29, Ohio Department of Natural Resources, 1968.
- o Ohio Water Plan Inventory, Middle Tuscarawas River and Sugar Creek Basins, Under Ground Water Resources, James J. Schmidt, 1962.
- o Flow Duration of Ohio Streams, Report No. 3 Ohio Water Plan Inventory, Department of Natural Resources, William Cross, 1959.
- o Northeast Ohio Water Plan, Main Report, Ohio Department of Natural Resources, 1972.

ATTACHMENT



RECEIVED

OCT 12 1987

GEOSCIENCES DEPT

OHIO WATER SERVICE COMPANY

123 THIRD STREET S.E.  
P.O. BOX 584  
MARIETTA, OHIO 44848

October 8, 1987

Mr. L. Sherrard Steele, Geologist  
Geosciences Dept.  
Weston Managers  
Weston Way  
West Chester, PA 19380

Dear Mr. Steele:

In response to your letter of October 5, 1987 I have compiled the enclosed list of address within the areas marked on your maps. This was compiled from our water service account records and a little field checking.

It should be noted that although all the buildings on the list, except one, have water service accounts, there is a very remote possibility that some of them may have a private well as a second source of water. A few of the names marked on your maps are on vacant lots. All residences within the areas marked have been included on my list.

Sincerely,

*Donald L. Snyder*

Donald L. Snyder  
Supervisor of Plans & Estimates

AN AFFILIATE OF



SECRET

**PIEZOMETER WELL INSTALLATION****EKCO HOUSEWARES, INC.****INTRODUCTION**

A total of three (3) piezometer wells will be installed at the EKCO Housewares facility as part of the Phase II site work. The purpose of these wells is to provide information for the interpretation of ground water flow between Ohio Water Service wells 1, 2, 3 and the EKCO facility. These data are required for completion of the Corrective Measures Study presently ongoing.

**MONITOR WELL LOCATIONS**

The locations of the existing monitor and proposed piezometer wells at the EKCO facility are shown on Figure 1. At each location the wells will intercept the water table and will be completed to approximately 35 to 40 feet below grade.

## WELL CONSTRUCTION

Figure 2 present a generalized diagram of the piezometer well construction. The wells will be constructed of 2-inch stainless steel wound wire screens and low carbon steel riser pipes. All wells will be installed with a suitable siliceous gravel/sand pack and a bentonite seal. The piezometer will be grouted from the top of the seal to the surface. The well screens will be set approximately three feet above the water table. Each well will have a protective black iron surface casing with a lockable cap. All connections will be screw type and joints will be flush. Only vegetable oil will be used, sparingly, if threads require lubrication. Final depth of each well will be determined by the on-site WESTON geologist.

## DRILLING AND WELL INSTALLATION METHODS

The piezometer wells will be installed using hollow stem augers. Split spoon samples (ASTM D1557) for physical description of the sediments will be obtained at five foot intervals at each piezometer location. The on-site geologist will maintain drilling logs and record sediment descriptions. No drilling fluids will be used with the exception of limited amounts of potable water if running sand conditions are encountered.

The total depth of each boring will be determined by WESTON's on-site geologist. At the determined depth, the well screen and riser will be installed and the augers withdrawn to the top of the screen. In this sandy aquifer, natural sand pack will be desirable. However, silica sand will be used to backfill the annular space if natural collapse has left voids after the augers are withdrawn. When plumbing the hole indicates that the sand pack is at the desired height, a bentonite seal will be set as the augers are gradually withdrawn to ensure no further collapse of the borehole. After the bentonite seal is set, the remaining annular space will be grouted with a cement/bentonite (20:1) mix. The grout will be pumped through the augers as they are withdrawn insuring that no collapse occurs. After completion, the grout will be checked for settlement and more grout added, if necessary. The upper 2.5 feet of the annular space will be filled with a cement/sand mix and the protective casing set as shown in Figure 2.

Soil cuttings from the drilling are not expected to be contaminated. Cuttings will be spread at the site or will be removed from the site in order to leave the area in a neat condition.

### DECONTAMINATION

The drilling rig, equipment and materials will arrive on site in clean condition. Prior to the start of the drilling, all drill rods, augers, tools, and split spoons will be steam cleaned at an area on-site designated for this purpose. Only potable water will be used. Well screens and pipes will also be cleaned and inspected to ensure that all residue such as machine oils has been removed. At the drilling site, plastic sheeting will be laid down under well pipe and screens to avoid ground contact. Care will be taken to keep all equipment clean before it enters the hole.

Between wells, the development pumps will be cleaned between wells by pumping through a detergent/water solution and then a clear rinse water.

### DEVELOPMENT

Each well will be developed with a submersible or suction pump until a steady flow of clear water is obtained and until at least five well volumes are removed. The pump hose shall be capable of reaching the base of the screens and orifice will be moved through the length of the screen during development. Based on experience with other monitor

wells at the site, an adequate flow of water is expected to maintain a sufficient head in all wells. However, if a sufficient head cannot be maintained during pumping, purging using a bailer and surge block method may be required.

#### SAFETY

Ground water contamination is known to be from volatile organics, primarily TCE and TCE in the part per million range. All monitor wells to be installed in this phase, however, are located outside of the plant process area where no soil contamination is anticipated or next to an uncontaminated on-site monitor well. Therefore a level D safety level will be in effect. This includes safety boots, work gloves, overalls and hard hats. Air monitoring however, will be done and, if organics are detected, work will be performed in Level C.

ATTACHMENT C

SCHEDULE FOR IMPLEMENTATION OF ADDITIONAL  
INTERIM MEASURES, EXCO PLANT,  
MASSILLON, OHIO



**ATTACHMENT C****SCHEDULE FOR IMPLEMENTATION OF ADDITIONAL  
INTERIM MEASURES, EKCO PLANT,  
MASSILLON, OHIO****Schedule**

1. Increased pumpage of W-10:
  - A. Receive 400 gpm pump - week of 3/7/88
  - B. Install new pump - week of 3/14/88
  - C. Pump test to establish optimum pump rate - weeks of 3/21/88 and 3/28/88
  - D. Operational - week of 4/4/88
2. Sampling of Ohio Water Company well #1, 2, 3, and 5:
  - A. Begin monthly sampling of wells - week of 2/8/88
  - B. Sample monthly - second week of each month
  - C. Reassess sampling schedule after receipt of three round of analytical results
3. Installation of 3 piezometers
  - A. Obtain access to neighboring properties: If access cannot be obtained by EKCO by 1 March, USEPA will be requested to assist in obtaining access
  - B. Mobilize well drillers - within 3 weeks of obtaining property access
  - C. Drilling and installation - 1 week
  - D. Survey and water level measurements - 1 week following installation

## ATTACHMENT II

### SCOPE OF WORK FOR A RCRA FACILITY INVESTIGATION AT EKCO HOUSEWARES, INC.

#### PURPOSE

The purpose of this RCRA Facility Investigation (RFI) is to evaluate the nature and extent, if any, of releases of hazardous waste or hazardous constituents from solid waste management units and other source areas at the facility and to gather necessary data to support the Corrective Measures Study. Respondent shall furnish all personnel, materials, and services necessary for, or incidental to, performing the RCRA Facility Investigation at EKCO Housewares, Inc., Massillon, Ohio Plant (the "facility").

#### SCOPE

The RCRA Facility Investigation consists of six tasks:

- Task I: Description of Current Conditions
- Task II: Pre-Investigation Evaluation of Corrective Measures Technologies
- Task III: RFI Workplan Requirements
- Task IV: Facility Investigation
- Task V: Investigation Analysis
- Task VI: Reports

#### TASK I: DESCRIPTION OF CURRENT CONDITIONS

Respondent shall submit for U.S. EPA approval a report providing the background information pertinent to the facility and suspected contamination as set forth below. The data gathered during any previous investigations or inspections and other relevant data shall be included.

##### A. Facility Background

The Respondent's report shall summarize the regional location, pertinent boundary features, general facility physiography, hydrogeology, and historical use of the facility for the treatment, storage, or disposal of solid and hazardous waste. Respondent's report shall include:

1. Map(s) depicting the following:
  - a. General geographic location;
  - b. Property lines with owners of all adjacent property clearly indicated;

- c. Topography waterways, all wetlands, floodplains, water features, drainage patterns;
- d. All tanks, buildings, utilities, paved areas, easements, rights-of-way, wells, and other significant features;
- e. All solid or hazardous waste treatment, storage, or disposal areas active after November 19, 1980.
- f. All known past solid or hazardous waste treatment, storage, or disposal areas regardless of whether they were active on November 19, 1980;
- g. All known past and present product and waste underground tanks or piping;
- h. Surrounding land uses (residential, commercial, agricultural, recreational).

All maps shall be consistent with the requirements set forth in 40 CFR 270.14 and be of sufficient detail and accuracy to locate and report all current and future work performed at the site.

- 2. A history and description of the ownership and operation, solid and hazardous waste generation, treatment, storage, and disposal activities at the facility.
- 3. Approximate dates or periods of past product and waste spills or deposits, if any, identification of the materials spilled or deposited, the amount spilled or deposited, and the location where spilled or deposited.
- 4. A summary of past and present environmental permits requested and/or received, any enforcement actions and their subsequent resolutions, and a list of documents prepared for this facility.

#### B. Nature and Extent of Contamination

Respondent shall prepare a preliminary report describing the existing information on the nature and extent of contamination.

- 1. Respondent's report shall summarize source areas of contamination. This, at a minimum, should include all solid waste management units and other suspect source areas. For each area Respondent shall identify the following:
  - a. Location of unit/area (which shall be depicted on a facility map).
  - b. Estimated quantities, if any, of potentially contaminated materials.
  - c. Hazardous constituents known to be present.

- d. Identification of areas where additional information is needed.
2. Respondent shall prepare an assessment and description of the existing degree and extent of contamination, if any. This should include:
  - a. Available monitoring data and qualitative information on locations and levels of contamination at the facility.
  - b. All potential migration pathways including information on geology, hydrogeology, physiography, hydrology, water quality, and meteorology.
  - c. All potential receptors, to include impacts on human health and the environment, demography, groundwater and surface water use and land use.

C. Interim Measures

Respondent shall document interim measures that were or are being undertaken at the facility per the final Interim Measure Report (WESTON, January 1988). This shall include:

1. Objectives of interim measures;
2. Specifications, construction, operation and maintenance requirements;
3. Schedules for design, construction and monitoring;
4. Schedules for progress reports.

TASK II: PREINVESTIGATION EVALUATION OF CORRECTIVE MEASURES TECHNOLOGIES

Prior to starting the facility investigation, the Respondent shall submit to U.S. EPA a report that identifies potential corrective measure technologies in two categories: groundwater corrective measures and source corrective measures. The report shall identify the field data collection needs of the following technologies:

A. Groundwater Corrective Measures Technologies

- Present recovery and treatment system.
- Modification of recovery and treatment system, including alternative recovery scenarios (i.e., recovery well pumping rates and well locations and depths) and additional supplementary air or water polishing treatment to remain in compliance with present or future permit conditions.

B. Source Corrective Measure Technologies

- Raw materials and waste handling modifications.
- Operations modification.
- No action (i.e., natural flushing).
- In situ vapor extraction.
- Biological treatment.

- Removal and offsite disposal.
- Onsite encapsulation.
- Low temperature thermal treatment.
- Soil washing or flushing.

### TASK III: RFI WORKPLAN REQUIREMENTS

Respondent shall prepare an RFI Workplan in addition to the Groundwater Assessment Plan, submitted pursuant to the PCAFO, for the EKCO Massillon, Ohio Site (WESTON, January 1988). The RFI Workplan shall include the development of several subplans that will be prepared concurrently. The RFI Workplan shall include the following:

#### A. Project Management Plan

Respondent shall prepare a Project Management Plan that will include a discussion of the technical approach, schedules, and personnel. The Project Management Plan will also include a description of the qualifications of personnel performing or directing the RFI, including contract personnel. This plan shall also document the overall management approach to the RCRA Facility Investigation.

#### B. Data Collection Quality Assurance Plan

Respondent shall prepare a plan to document monitoring procedures, sampling, field measurements, and sample analysis performed during the investigation to characterize the environmental setting, source, and contamination, if any, so as to ensure that all information, data, and resulting decisions are technically sound, statistically valid, and properly documented.

The Data Collection Quality Assurance Plan shall be consistent with guidance issued under RCRA and other appropriate regulations and shall include a description of:

1. Data Collection strategy
2. Sampling strategy
3. Field measurements
4. Sample analysis

#### C. Data Management Plan

Respondent shall develop and initiate a Data Management Plan in accordance with applicable U.S. EPA Guidance Documents to document and track investigation data and results. This plan shall identify and set up data documentation materials and procedures, project file requirements, and project-related progress reporting procedures and documents. The plan shall also provide the format to be used to present the raw data and conclusions of the investigation.

D. Health and Safety Plan

Respondent shall prepare a Health and Safety Plan.

1. Major elements of the Health and Safety Plan include:

- a. Facility description, including availability of resources such as roads, water supplies, electricity, and telephone services.
- b. Description of the known hazards and evaluation of the risks associated with the incident and with each activity conducted.
- c. List of key personnel and alternates responsible for site safety, response operations, and protection of human health.
- d. Description of levels of protection to be worn by personnel.
- e. Delineation of work area.
- f. Procedures to control site access.
- g. Description of decontamination procedures for personnel and equipment.
- h. Site emergency procedures.
- i. Emergency medical care for injuries and toxicological problems.
- j. Description of requirements for an environmental surveillance program.
- k. Routine and special training required for responders.
- l. Procedures for protecting workers from weather-related problems.
- m. Emergency procedures.

2. The Facility Health and Safety Plan shall be consistent with:

- a. NIOSH Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities (1985)
- b. U.S. EPA Order 1440.1 - Respiratory Protection
- c. U.S. EPA Order 1440.3, Health and Safety Requirements for Employees Engaged in Field Activities
- d. Facility Contingency Plan
- e. U.S. EPA Standard Operating Safety Guide (1984)
- f. OSHA regulations particularly in 29 CFR 1910 and 1926
- g. State and local regulations

#### E. Community Relations Plan

The respondent shall provide appropriate assistance and expertise for the dissemination of information to the public regarding investigation activities and results.

#### TASK IV: FACILITY INVESTIGATION

Respondent shall conduct those investigations necessary in accordance with applicable U.S. EPA guidance to: characterize the facility (Environmental Setting); define the sources, if any, (Source Contamination); define the degree and extent of contamination, if any (Contamination Characterization); and identify actual or potential receptors (Potential Receptor Identification).

The investigations should result in data of adequate technical content to support the development and evaluation of the corrective measure alternative(s) during the Corrective Measures Study.

The site investigation activities shall follow the RFI Workplan, the Groundwater Assessment Plan (submitted to U.S. EPA December 1987, pursuant to the Partial Corrective Action Order) for the EKCO Massillon, Ohio Site, and the subplans set forth in Task III. All sampling and analyses shall be conducted in accordance with the Data Collection Quality Assurance Plan. All sampling locations shall be documented in a log and identified on a detailed site map. The information and data developed during the implementation of the Groundwater Quality Assessment Plan shall be used in, and form the basis for, facility investigation activities. The sampling and analytical techniques used during the implementation of the Groundwater Quality Assessment Plan will be in accordance with Contract Laboratory Program, Quality Assurance Standards.

##### A. Environmental Setting

Respondent shall collect information to supplement and verify existing information on the environmental setting at the facility.

##### B. Source Characterization

Respondent shall collect analytical data to characterize the wastes, if any, and the areas where wastes may have been placed, collected or removed, including: type; quantity; physical form; disposition (containment or nature of deposits); and facility characteristics affecting release (e.g., facility security, engineered barriers). The data generated from the contaminant source characterization activities performed in accordance with Section 3.2 of the Groundwater Assessment Plan for the EKCO, Massillon, Ohio site shall provide the basis for, and be used in the source characterization activities performed pursuant to this RFI Scope of Work. Respondent recognizes that additional work may be necessary to complete the source characterization.

## C. Contamination Characterization

Respondent shall collect analytical data on groundwater, soils, surface water, sediment and subsurface vapor in the vicinity of the facility. These data shall be sufficient to define the extent, origin, direction, and rate of movement of contaminant plumes associated with solid waste management units. Data shall include time and location of samplings, media sampled, concentrations of contaminants found, weather conditions during sampling, and identities of the individuals performing the sampling and analysis. The data generated from the contamination characterization activities performed in accordance with Section 3.2 of the Groundwater Assessment Plan for the EKCO, Massillon, Ohio site shall provide the basis for, and be used in the contamination characterization activities performed pursuant to this RFI Scope of Work. Respondent recognizes that additional work may be necessary to complete the contaminant characterization. Respondent shall address the following types of contamination at the facility:

### 1. Groundwater Contamination

Respondent shall conduct a groundwater investigation for the EKCO Massillon, Ohio Site to characterize plumes of contamination at the facility, if any, emanating from solid waste management units. The scope of the Groundwater Assessment Plan includes:

- a. A description of the horizontal and vertical extent of any immiscible or dissolved contaminant plume(s), if any, originating from the facility.
- b. The horizontal and vertical directions of contamination movement, if any.
- c. The velocities of contaminant movement, if any.
- d. The horizontal and vertical concentration profiles, if any, of select Appendix VIII constituents (volatile organic compounds and heavy metals) in the plume(s).
- e. An evaluation of factors influencing the potential plume movement.
- f. An extrapolation of future contaminant movement, if any.

Respondent shall document the procedures to be used in making the above determinations (e.g., well design, well construction, geophysics, modeling, or other methods utilized) in the workplan.

### 2. Soil Contamination

An investigation shall be performed of soil contamination, if any, beneath the facility. This investigation shall provide the following information:



- a. A description of the vertical and horizontal extent of contamination, if any.
- b. A description of contaminant and soil chemical properties within the contaminant source area, if any.
- c. Specific contaminant concentrations, if any.
- d. The contaminant movement or migration, if any.
- e. The potential impact of contaminant movement from the unsaturated zone.

Respondent shall document the procedures used in making the above determinations.

### 3. Surface Water and Sediment Contamination

Respondent shall conduct a surface water and sediment investigation to characterize contamination, if any, that may be in surface-water bodies resulting from contaminant releases at the facility. The investigation shall include, but not be limited to, the following information:

- a. Determine if offsite migration of contaminated surface sediments has occurred.
- b. Determine if contaminants are entering the surface waters adjacent to the site.

### 4. Subsurface Soils Contamination and Soil Gases

Respondent shall investigate soil contamination, if any, and the presence of soil gas. The investigation shall include the following:

- a. Identify soil contamination areas, if any, for further investigation using direct sampling as identified in item #2 above.
- b. Calculate the potential, if any, for soil vapor migration to the ground surface and the atmosphere.

### D. Potential Receptor Identification

Respondent shall collect data as needed on potentially impacted populations consistent with appropriate guidance documents. The following characteristics shall be identified:

- 1. Local uses and possible future uses of groundwater:
  - a. Type of use (e.g., drinking water source, municipal, residential, agricultural, domestic/nonpotable, and industrial).

- b. Locations of groundwater users, including wells and discharge areas.
- 2. Local uses and possible future uses of surface water draining from the facility:
  - a. Domestic and municipal (e.g., potable, lawn/gardening watering)
  - b. Recreational (e.g., swimming, fishing)
  - c. Agricultural
  - d. Industrial
  - e. Environmental (e.g., fish and wildlife propagation)
- 3. Human use of or access to the facility and immediately adjacent lands including:
  - a. Recreation
  - b. Agriculture
  - c. Residential
  - d. Commercial
  - e. Zoning
- 4. A description of the biological community in surface water adjacent to or potentially affected by the facility will be performed if chemical analysis indicate the need for this evaluation.

#### TASK V: INVESTIGATION ANALYSIS

Respondent shall prepare an analysis and summary of all facility investigations and their results. The objective of this task shall be to ensure that the investigation data are sufficient in quality (e.g., quality assurance procedures have been followed) and quantity to describe the nature and extent of contamination, if any, potential threat to human health and the environment, if any, and to support the Corrective Measures Study.

##### A. Data Analysis

Respondent shall analyze all facility investigation data outlined in Task IV and prepare a report on the type and extent of contamination, if any, at the facility, including sources and migration pathways. The report shall describe the extent of contamination, if any, (qualitative/quantitative) in relation to the background levels for the area.

## B. Protection Standards

### 1. Groundwater Protection Standards

Respondent shall provide information to support the Agency's selection/development of Groundwater Protection Standards for all hazardous constituents found in the groundwater during the Facility Investigation (Task IV).

- a. The Groundwater Protection Standards shall consist of:
  - i. For any constituents listed in Table 1 of 40 CFR 264.94, the respective value given in that table (MCL) if the background level of the constituents is below the given in Table 1, or
  - ii. The background level of that constituent in the groundwater, or
  - iii. A U.S. EPA-approved Alternate Concentration Limit (ACL)
- b. Information to support the Agency's selection of Alternate Concentration Limits (ACLs) shall be developed by the Respondent in accordance with U.S. EPA guidance. For any proposed ACLs, U.S. EPA shall specify in writing the reason(s) for any disapproval or approval with modification.
- c. Within sixty (60) days of receipt of any proposed ACLs, the U.S. EPA shall notify Respondent in writing of approval, disapproval, or approval with modifications. The U.S. EPA shall specify in writing the reason(s) for any disapproval or approval with modification.
- d. Within thirty (30) days of receipt of the U.S. EPA's notification of disapproval of any proposed ACL, the Respondent shall amend and submit revisions to the U.S. EPA.

### 2. Other Relevant Protection Standards

Respondent shall identify all relevant and applicable state and Federal standards for the protection of human health and the environment to include standards for:

- a. Drinking water
- b. Ambient water quality
- c. Ambient air quality

## TASK VI: REPORTS

Respondent shall submit to the U.S. EPA reports as delineated in the schedules contained in the Groundwater Assessment Plan for the EKCO Massillon Site and the RFI Workplan.

A. Draft and Final

Respondent shall prepare and submit 5 copies of the RCRA Facility Investigation Report. The RCRA Facility Investigation Report shall be developed in draft form for U.S. EPA review. The RCRA Facility Investigation Report shall be finalized incorporating comments received on the Draft RCRA Facility Investigation Report from U.S. EPA to the extent required by this Consent Decree.

B. Progress

Monthly progress reports shall be submitted to U.S. EPA by the 20th of each month. The monthly progress report will at a minimum include:

1. A detailed summary of work completed during the previous month;
2. A description of problems encountered during the previous month;
3. A description of problem resolution from previous reports;
4. A schedule of planned activities for the coming month.

## ATTACHMENT III

### SCOPE OF WORK FOR A CORRECTIVE MEASURES STUDY AT EKCO HOUSEWARES, INC.

#### PURPOSE

The purpose of this Corrective Measures Study (CMS) is to develop and evaluate the corrective action alternative(s) and to recommend the corrective measure or measures, if any, which may be taken at EKCO Housewares, Inc.. The CMS may support the continuation of the existing remedial activities as the Corrective Measure Program for the site. Respondent will furnish the personnel, materials, and services necessary to prepare the corrective measures study, except as otherwise specified.

#### SCOPE

The Corrective Measure Study consists of five tasks:

TASK VII: IDENTIFICATION AND DEVELOPMENT OF THE CORRECTIVE MEASURE ALTERNATIVE(S)

- A. Description of Current Situation
- B. Establishment of Corrective Action Objectives
- C. Screening of Corrective Measures Technologies
- D. Identification of the Corrective Measure Alternative(s)

TASK VIII: LABORATORY AND BENCH-SCALE STUDIES (IF NECESSARY)

TASK IX: EVALUATION OF THE CORRECTIVE MEASURES ALTERNATIVE(S)

- A. Technical/Environmental/Human Health Institutional
- B. Cost Estimates

TASK X: RECOMMENDATION OF THE CORRECTIVE MEASURE(S) ALTERNATIVE(S)

- A. Technical
- B. Environmental
- C. Human Health

TASK XI: REPORTS

- A. Progress (monthly)
- B. Draft
- C. Final

**TASK VII: IDENTIFICATION AND DEVELOPMENT OF THE CORRECTIVE MEASURE**  
**ALTERNATIVE(S)**

Based upon the results of the RCRA Facility Investigation and consideration of the identified Preliminary Corrective Measure Technologies (Task II), Respondent shall identify, screen, and develop the alternative(s) for removal, containment, treatment, and/or other remediation of the contamination based on the objectives established for the corrective action.

**A. Description of Current Situation**

Respondent shall submit an update to the information describing the current situation at the facility and the known nature and extent of the contamination, if any, as documented by the RCRA Facility Investigation Report. Respondent shall provide an update to the information presented in Task I of the RFI to the Agency regarding previous response activities and any interim measures that have or are being implemented at the facility. Respondent shall also make a facility-specific statement of the purpose for the response based on the results of the RCRA Facility Investigation. The statement of purpose should identify the actual or potential exposure pathways that should be addressed by corrective measures.

**B. Establishment of Corrective Action Objectives**

Respondent shall recommend to U.S. EPA site-specific objectives for the corrective action needed to protect human health and the environment. These objectives shall be based on public health and environmental criteria, information gathered during the RCRA Facility Investigation, final applicable U.S. EPA guidance supplied to Respondent, and applicable requirements of Federal statutes. All corrective actions concerning groundwater releases must be consistent with, and as stringent as, those required under 40 CFR 264.101.

**C. Screening of Corrective Measure Technologies**

Respondent shall review the results of the RCRA Facility Investigation and reassess the technologies specified in Task II to identify any additional technologies that are applicable at the facility. Respondent shall screen the preliminary corrective measure technologies identified in Task II of the RCRA Facility Investigation and any supplemental technologies to eliminate those that may not prove feasible to implement, that rely on technologies unlikely to perform satisfactorily or reliably, or that do not achieve the corrective measure objective within a reasonable period of time achieve the corrective measure period that is environmentally protective and cost-effective. This screening process focuses on eliminating those technologies that have several limitations for a given set of waste- and site-specific conditions. The screening step may also eliminate technologies based on commercial availability of technologies and the inherent technology limitations.

Site, waste, and technology characteristics that are used to screen inapplicable technologies are described in more detail below:

### 1. Site Characteristics

Site data should be reviewed to identify conditions that may limit or promote the use of certain technologies. Technologies whose use is clearly precluded by site characteristics should be eliminated from further consideration.

### 2. Waste Characteristics

Identification of waste characteristics that limit the effectiveness or feasibility of technologies is an important part of the screening process. Technologies clearly limited by these waste characteristics should be eliminated from consideration. Waste characteristics particularly effect the feasibility of in situ methods, direct treatment methods, and land disposal (on/offsite).

### 3. Technology Limitations

During the screening process, the level of technology development, commercial availability, performance record, and inherent construction, operation, and maintenance problems should be identified for each technology considered. Technologies that are unreliable, perform poorly, or are not fully demonstrated may be eliminated in the screening process. For example, certain treatment methods have been developed to a point where they can be implemented in the field without extensive technology transfer or development.

### D. Identification of the Corrective Measure Alternative or Alternatives

Respondent shall develop the corrective measure alternative(s) based on the corrective action objectives and analysis of Preliminary Corrective Measures Technologies, as presented in Task II of the RCRA Facility Investigation, and as supplemented following the preparation of the RFI Report. These may include a no-action alternative. The Respondent shall rely on sound engineering practices to determine which of the previously identified alternatives appear most suitable for the site. Technologies can be combined to form an overall corrective measure alternative. The alternatives developed should represent a workable number of option(s) that appear to adequately address all site problems and corrective action objectives. Alternatives may consist of an individual technology or a combination of technologies. Respondent shall document the reasons for excluding technologies identified in Task II, as supplemented.

### TASK VIII: LABORATORY AND BENCH-SCALE STUDIES

If the U.S. EPA determines upon conferring with Respondent that it is appropriate, Respondent shall conduct laboratory and/or bench-scale studies to determine the applicability of corrective measure technology(ies) to facility conditions. Respondent shall analyze the technologies based on literature review, vendor contacts, and past experience to determine the testing requirements.

Respondent shall develop a testing plan identifying the type(s) and goal(s) of the study(ies), the levels of effort needed, and the procedures to be used for data management and interpretation.

Upon completion of the testing, Respondent shall evaluate the testing results to assess the technology(ies) with respect to the site-specific questions identified in the test plan.

Respondent shall prepare a report summarizing the testing program and its results, both positive and negative.

The Respondent shall submit a report delineating the procedures, analyses, and results of any laboratory or bench-scale studies as performed.

#### TASK IX: EVALUATION OF THE CORRECTIVE MEASURE ALTERNATIVE(S)

Respondent shall describe each corrective measure alternative that passes through the Initial Screening in Task VIII and evaluate each corrective measure alternative and its components. The evaluation shall be based on technical, environmental, human health, and institutional concerns. Respondent shall also develop cost estimates for each corrective alternative.

##### A. Technical/Environmental/Human Health/Institutional

Respondent shall provide a description of each corrective measure alternative that will include the following: preliminary process flow sheets; preliminary sizing and types of construction for buildings and structures; and rough quantities of utilities required. Respondent shall evaluate each alternative in the following four areas:

##### 1. Technical

Respondent shall evaluate each corrective measure alternative based on performance reliability, implementability, and safety.

a. Respondent shall evaluate performance based on the effectiveness and useful life of the corrective measure:

i) Effectiveness shall be evaluated in terms of the ability to perform intended functions such as containment, diversion, removal, destruction, or treatment. The effectiveness of each corrective measure shall be determined either through design specifications or by performance evaluation. Any specific waste or site characteristic that could potentially impede effectiveness shall be considered. The evaluation should also consider the effectiveness of combinations of technologies; and

ii) Useful life is defined as the length of time the level of effectiveness can be maintained. Most corrective measure technologies, with the exception of destruction, deteriorate with time. Often, deterioration can be slowed through proper system operation and maintenance, but the



technology eventually may require replacement. Each corrective measure shall be evaluated in terms of the projected service lives of its component technologies, as well as appropriateness of the technologies.

- b. Respondent shall provide information on the reliability of each corrective measure alternative to meet the corrective action objectives, including its operation and maintenance requirements and their demonstrated reliability.
- c. The Respondent shall describe the implementability of each corrective measure, including the relative ease of installation (constructability) and the time required to achieve the corrective action objectives.

## 2. Environmental

The Respondent shall perform an Environmental Assessment for each alternative. The Environmental Assessment shall focus on the facility conditions and pathways of contamination actually addressed by each alternative. The Environmental Assessment for each alternative will include an evaluation of: the short and long-term beneficial and adverse effects of the response alternative; any adverse effects on environmentally sensitive areas; and an analysis of measures to mitigate adverse effects.

## 3. Human Health

Respondent shall assess each alternative in terms of the extent to which it mitigates short and long-term potential exposure to any residual contamination and how it protects human health both during and after implementation of the corrective measure. The assessment will describe the levels and characterizations of contaminants onsite, potential exposure routes, and the potentially affected population. Each alternative will be evaluated to determine the level of exposure to contaminants and the reduction over time. For management of mitigation measures, the relative reduction of impact will be determined by comparing residual levels of each alternative with existing criteria, standards, or guidelines acceptable to U.S. EPA.

## 4. Institutional

Respondent shall assess relevant institutional needs or limitations for each alternative, specifically the effects of Federal, state, and local environmental and public health statutes, standards, regulations, final guidance, or ordinances.

## B. Cost Estimate

The Respondent shall develop an estimate of the cost for each corrective measure alternative and for each phase or segment of the alternative. The cost estimate shall include capital, operation, and maintenance costs.

1. Capital costs consist of direct (construction) and indirect (nonconstruction and overhead) costs.
  - a. Direct capital costs include:
    - i. Construction costs: costs of materials, labor (including fringe benefits and workers compensation), and equipment required to install the corrective measure.
    - ii. Equipment costs: costs of treatment, containment, disposal and/or service equipment necessary to implement the action; these materials remain until the corrective action is complete;
    - iii. Land and site-development costs: expenses associated with purchase of land and development of existing property; and
    - iv. Buildings and services costs: costs of process and nonprocess buildings, utility connections, purchased services, and disposal costs.
  - b. Indirect capital costs include:
    - i. Engineering expenses: costs of administration, design, construction supervision, drafting, and testing of corrective measure alternatives;
    - ii. Legal fees and license or permit costs: administrative and technical costs necessary to obtain licenses and permits for installation and operation.
    - iii. Startup and shakedown costs: costs incurred during corrective measure startup; and
    - iv. Contingency allowances: funds to cover costs resulting from unforeseen circumstances, such as adverse weather conditions, strikes, and inadequate facility characterization.
2. Operation and maintenance costs are post-construction costs necessary to ensure continued effectiveness of a corrective measure. The Respondent shall consider the following operation and maintenance cost components:
  - a. Operating labor costs; wages, salaries, training, overhead, and fringe benefits associated with the labor needed for post construction operations;
  - b. Maintenance materials and labor costs: costs for labor, parts, and other resources required for routine maintenance of facilities and equipment;

- c. Auxiliary materials and energy: costs of such items as chemicals and electricity for treatment plant operations, water and sewer service, and fuel;
- d. Purchased services: sampling costs, laboratory fees, and professional fees for which the need can be predicted;
- e. Disposal and treatment costs: costs of transporting, treating, and disposing of waste materials, such as treatment plant residues, generated during operations;
- f. Administrative costs: costs associated with administration of corrective measure operation and maintenance not included under other categories;
- g. Insurance, taxes, and licensing costs: costs of such items as liability and sudden accidental insurance; real estate taxes on purchased land or rights-of-way; licensing fees for certain technologies; and permit renewal and reporting costs;
- h. Maintenance reserve and contingency funds: annual payments into escrow funds to cover (1) costs of anticipated replacement or rebuilding of equipment, and (2) any large unanticipated operation and maintenance costs; and
- i. Other costs: items that do not fit any of the above categories.

#### TASK X: RECOMMENDATION OF THE CORRECTIVE MEASURE OR MEASURES

Respondent shall recommend and justify a corrective measure alternative using technical, human health, and environmental criteria.

This recommendation shall include summary/tables that allow the alternative(s) to be easily understood. Trade-offs among health risks, environmental effects, and other pertinent factors shall be highlighted. As a minimum, the following criteria will be used to justify the final corrective measure(s).

##### A. Technical

- 1. Performance - corrective measure(s) that are most effective at performing their intended functions and maintaining the performance over extended periods of time will be given preference.
- 2. Reliability - corrective measure(s) that do not require frequent or complex operation and maintenance activities, and that have proven effective under waste and facility conditions similar to those anticipated will be given preference.
- 3. Implementability - corrective measure(s) that can be constructed and operated to reduce levels of contamination to attain or exceed

applicable standards in the shortest period of time will be preferred.

4. Safety - corrective measure(s) that pose the least threat to the safety of nearby residents and environments, as well as workers during implementation will be preferred.

B. Human Health

The corrective measure(s) must comply with existing promulgated U.S. EPA criteria, standards, and guidelines for the protection of human health. Corrective measures that provide the minimum level of exposure to contaminants and the maximum reduction in exposure with time to identified actual human receptors will be considered preferable.

C. Environmental

The corrective measure alternative posing the least adverse impact or greatest improvement over the shortest period of time to the environment will be favored.

TASK XI: REPORTS

Respondent shall prepare a Corrective Measures Study Report presenting the results of Task VIII through X and recommending a corrective measure alternative.

A. Progress

The Permittee shall, at a minimum, provide the EPA with signed monthly progress reports containing the items listed below, as necessary:

1. A description and estimate of the percentage of the CMS completed;
2. Summaries of all findings;
3. Summaries of all changes made in the CMS during the reporting period;
4. Summaries of all contacts with the public regarding the CMS;
5. Actions being taken to rectify problems;
6. Changes in personnel during the reporting period;
7. Projected work for the next reporting period.

B. Draft

The Report shall include:

1. A description of the facility including a site topographic map and preliminary layouts.

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

One Financial Center  
Boston, Massachusetts 02111

1825 Eye Street, N.W.  
Washington, D.C. 20006  
Telephone: 202/293-0500  
Fax: 202/466-5479

Telephone: 617/542-6000  
Telex: 94-0198  
Fax: 617/542-2241

Direct Dial Number

April 4, 1989

BY FEDERAL EXPRESS

Ms. Susan Prout  
United States Environmental  
Protection Agency Region V  
RCRA Enforcement Branch, 5HR-12  
230 South Dearborn Street  
Chicago, Illinois 60604

Dear Ms. Prout:

In forwarding to you the executed consent decree last week, I neglected to have Ekco forward to you a second executed counterpart for signature by USEPA. I enclose an executed original signature page for that purpose. I would be grateful if you would have the Regional Administrator execute it along with the counterpart you received from Ekco last week and return it to me for inclusion with Ekco's counterpart.

Sincerely,



Cameron F. Kerry

CFK:aav

Enclosure

7851E/89

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

One Financial Center  
Boston, Massachusetts 02111

5 Eye Street, N.W.  
Washington, D.C. 20006  
Telephone: 202/293-0500  
Fax: 202/466-5479

Telephone: 617/542-6000  
Telex: 94-0198  
Fax: 617/542-2241

Direct Dial Number

April 4, 1989

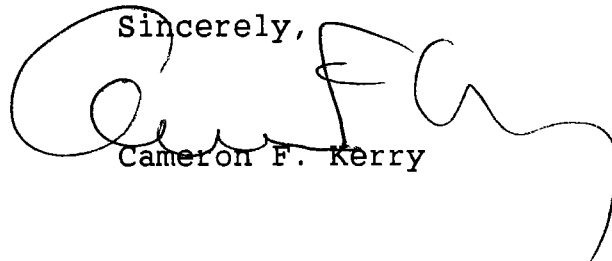
BY FEDERAL EXPRESS

Ms. Susan Prout  
United States Environmental  
Protection Agency Region V  
RCRA Enforcement Branch, 5HR-12  
230 South Dearborn Street  
Chicago, Illinois 60604

Dear Ms. Prout:

In forwarding to you the executed consent decree last week, I neglected to have Ekco forward to you a second executed counterpart for signature by USEPA. I enclose an executed original signature page for that purpose. I would be grateful if you would have the Regional Administrator execute it along with the counterpart you received from Ekco last week and return it to me for inclusion with Ekco's counterpart.

Sincerely,



Cameron F. Kerry

CFK:aav

Enclosure

7851E/89

D.S.2

APR 17 1989

5HR-13

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Steve Oster  
Wilke Fair & Gallagher  
Three Lafayette Centre  
1155 21st Street NW  
Washington, D.C 20036-3302

Re: Corrective Action Order  
on Consent  
EKCO Housewares, Inc.

Dear Mr. Oster:

This letter is to acknowledge receipt of the 3008(h) Corrective Action Order signed by EKCO Housewares, Inc. A fully executed copy of the 3008(h) Corrective Action Order is enclosed for your file.

Your cooperation in resolving this matter is appreciated.

Sincerely yours,

David A. Ullrich  
Associate Director, Office of RCRA  
Waste Management Division

Enclosure

cc: Michael Savage, OEPA-CO

5HR-12:SAVERILL:sbowie:3/1589:disk #1:EKCO

INIT. DATE	TYP.	AUTH.	IL/IN TECH. ENF. SEC.	MI/VI TECH. ENF. SEC.	OH/MN TECH. ENF. SEC.	IL/MI/VI ENF. PROG. SECTION	IN/MN/OH ENF. PROG. SECTION	RCRA ENF. BR. CHIEF	O.R. A.D.D.	WMD DIR
5/3/89	SA	SA			2/16/89			WEM 3/14/89	DAU 4/13/89	DAU 4/13/89

JB 4/14/89

5HR 3/20/89

SECRET

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814	815	816	817	818	819	820	821	822	823	824	825	826	827	828	829	830	831	832	833	834	835	836	837	838	839	840	841	842	843	844	845	846	847	848	849	850	851	852	853	854	855	856	857	858	859	860	861	862	863	864	865	866	867	868	869	870	871	872	873	874	875	876	877	878	879	880	881	882	883	884	885	886	887	888	889	890	891	892	893	894	895	896	897	898	899	900	901	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917	918	919	920	921	922	923	924	925	926	927	928	929	930	931	932	933	934	935	936	937	938	939	940	941	942	943	944	945	946	947	948	949	950	951	952	953	954	955	956	957	958	959	960	961	962	963	964	965	966	967	968	969	970	971	972	973	974	975	976	977	978	979	980	981	982	983	984	985	986	987	988	989	990	991	992	993	994	995	996	997	998	999	1000	1001	1002	1003	1004	1005	1006	1007	1008	1009	1010	1011	1012	1013	1014	1015	1016	1017	1018	1019	1020	1021	1022	1023	1024	1025	1026	1027	1028	1029	1030	1031	1032	1033	1034	1035	1036	1037	1038	1039	1040	1041	1042	1043	1044	1045	1046	1047	1048	1049	1050	1051	1052	1053	1054	1055	1056	1057	1058	1059	1060	1061	1062	1063	1064	1065	1066	1067	1068	1069	1070	1071	1072	1073	1074	1075	1076	1077	1078	1079	1080	1081	1082	1083	1084	1085	1086	1087	1088	1089	1090	1091	1092	1093	1094	1095	1096	1097	1098	1099	1100	1101	1102	1103	1104	1105	1106	1107	1108	1109	1110	1111	1112	1113	1114	1115	1116	1117	1118	1119	1120	1121	1122	1123	1124	1125	1126	1127	1128	1129	1130	1131	1132	1133	1134	1135	1136	1137	1138	1139	1140	1141	1142	1143	1144	1145	1146	1147	1148	1149	1150	1151	1152	1153	1154	1155	1156	1157	1158	1159	1160	1161	1162	1163	1164	1165	1166	1167	1168	1169	1170	1171	1172	1173	1174	1175	1176	1177	1178	1179	1180	1181	1182	1183	1184	1185	1186	1187	1188	1189	1190	1191	1192	1193	1194	1195	1196	1197	1198	1199	1200	1201	1202	1203	1204	1205	1206	1207	1208	1209	1210	1211	1212	1213	1214	1215	1216	1217	1218	1219	1220	1221	1222	1223	1224	1225	1226	1227	1228	1229	1230	1231	1232	1233	1234	1235	1236	1237	1238	1239	1240	1241	1242	1243	1244	1245	1246	1247	1248	1249	1250	1251	1252	1253	1254	1255	1256	1257	1258	1259	1260	1261	1262	1263	1264	1265	1266	1267	1268	1269	1270	1271	1272	1273	1274	1275	1276	1277	1278	1279	1280	1281	1282	1283	1284	1285	1286	1287	1288	1289	1290	1291	1292	1293	1294	1295	1296	1297	1298	1299	1300	1301	1302	1303	1304	1305	1306	1307	1308	1309	1310	1311	1312	1313	1314	1315	1316	1317	1318	1319	1320	1321	1322	1323	1324	1325	1326	1327	1328	1329	1330	1331	1332	1333	1334	1335	1336	1337	1338	1339	1340	1341	1342	1343	1344	1345	1346	1347	1348	1349	1350	1351	1352	1353	1354	1355	1356	1357	1358	1359	1360	1361	1362	1363	1364	1365	1366	1367	1368	1369	1370	1371	1372	1373	1374	1375	1376	1377	1378	1379	1380	1381	1382	1383	1384	1385	1386	1387	1388	1389	1390	1391	1392	1393	1394	1395	1396	1397	1398	1399	1400	1401	1402	1403	1404	1405	1406	1407	1408	1409	1410	1411	1412	1413	1414	1415	1416	1417	1418	1419	1420	1421	1422	1423	1424	1425	1426	1427	1428	1429	1430	1431	1432	1433	1434	1435	1436	1437	1438	1439	1440	1441	1442	1443	1444	1445	1446	1447	1448	1449	1450	1451	1452	1453	1454	1455	1456	1457	1458	1459	1460	1461	1462	1463	1464	1465	1466	1467	1468	1469	1470	1471	1472	1473	1474	1475	1476	1477	1478	1479	1480	1481	1482	1483	1484	1485	1486	1487	1488	1489	1490	1491	1492
---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------



APR 13 1989

MEMORANDUM

SUBJECT: §3008(h) Corrective Action Order  
for EKCO Housewares, Inc.

FROM: Basil G. Constantelos, Director  
Waste Management Division

TO: Valdas V. Adamkus  
Regional Administrator

Attached for your review and signature are two copies of an Administrative Order on Consent issued pursuant to the authority of Section 3008(h) of the Resource Conservation and Recovery Act (RCRA). This Order requires EKCO Housewares, Inc., to undertake investigative and remedial activities at EKCO Housewares' Massillon, Ohio facility. Frank Covington signed the original Order on April 3, 1989.

The following changes have been made to the Order:

page 2 - handwritten insert in paragraph B typed in.

page 11 - handwritten insert in paragraph L typed in and clarified.

page 20 - contacts for EKCO and American Home Products added in the Notification section.

page 23 - "U.S. EPA" inserted before "technical representative" in line 3 for clarification purposes.

I recommend that you sign this revised Administrative Order on Consent on behalf of Region V.

Attachments

INIT. DATE	TYP.	AUTH.	IL/IN TECH. ENF. SEC.	MI/WI TECH. ENF. SEC.	OH/MN TECH. ENF. SEC.	IL/MI/WI ENF. PROG. SECTION	IN/MI/NOH ENF. PROG. SECTION	RCRA ENF. SR. CHIEF	O.R. A.D.O.	W.D. D.H.
		<i>[Signature]</i>			<i>[Signature]</i> 4/10/89			<i>[Signature]</i> 4/13/89	<i>[Signature]</i> 4/13/89	

*Handwritten notes:*  
AP 4/10/89  
Cecy 4-13-89  
EP 4-13-89  
9B 4/14/89  
5RA  
any  
4/15

[illegible]

MAR 31 1989

MEMORANDUM

SUBJECT: §3008(h) Corrective Action Order  
for EKCO Housewares, Inc.

FROM: Basil G. Constantelos, Director  
Waste Management Division

TO: Valdas V. Adamkus  
Regional Administrator

Attached for your review and signature is an Administrative Order on Consent issued pursuant to the authority of Section 3008(h) of the Resource Conservation and Recovery Act (RCRA). This Order requires EKCO Housewares, Inc., to undertake investigative and remedial activities at EKCO Housewares' Massillon, Ohio facility.

We recommend that you sign this Administrative Order on Consent on behalf of Region V.

Attachment

5HR-12:SAVERILL:sbowie:3/15/89:ekco.mem:6-4439

TYP.	AUTH.	IL/IN TECH. ENF. SEC.	MI/WI TECH. ENF. SEC.	OH/MN TECH. ENF. SEC.	IL/IN ENF. SEC.	IN/MN/OH ENF. SEC.	RCRA ENF. SEC.	O.R. A.D.D.
5/15/89	[Signature]			[Signature] 3-16			WEM 3/16/89	WEM 3/16/89

Handwritten notes and signatures:   
- Top right: [Signature] 3/15/89   
- Middle right: 5HR 3/16/89   
- Bottom right: [Signature] 3/16/89

## MEETING ROSTER

PLACE REG IV

[illegible]

## SETTLEMENT CONFERENCE

NAME \_\_\_\_\_

DATE \_\_\_\_\_

SUBJECT \_\_\_\_\_

SUMMARY OF CONFERENCE \_\_\_\_\_

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

# RCRA ENFORCEMENT ACTION SIGN-OFF

## PART I. BACKGROUND

FACILITY NAME EKCO HOUSEWARES, INC  
 FACILITY LOCATION MASSILLON, OHIO  
 RCRA ID NUMBER OHIO 045 205 424  
 NATURE OF VIOLATION REMEDIATION OF GROUNDWATER  
CONTAMINATION PROBLEM VIA A 3008(L) ORDER  
 ANY OTHER OUTSTANDING OR PAST ENFORCEMENT ACTIONS AGAINST THIS FACILITY:

WATER \_\_\_\_\_  
 AIR \_\_\_\_\_  
 OTHER \_\_\_\_\_

## PART II. RECOMMENDATION

~~UNKATICAL~~ Consent Order  
ISSUE 3008(L) C.A.P. AFTER 60 DAYS  
NEGOTIATION AS PER 3008(a) P.C.A.F.O.  
 ADR language is used in this COMMITMENT,  
 order. Although HQ's has not reviewed

## PART III. CONCURRENCES ON DRAFT

this exact language they have approved &  
 more stringent wording in the safety-Kleen Order.  
 INITIALS DATE AGREE DISAGREE

PREPARER	<u>W.F.N.</u>	<u>8-24-87</u>	(✓)	( )
CHIEF, RCRA ENF. UNIT	<u>JS</u>	<u>10-8-87</u>	(✓)	( )
CHIEF, RCRA ENF. SECTION			( )	( )
ASSISTANT REGIONAL COUNSEL	<u>SWP</u>	<u>8/27</u>	(✓)	( )
NAME	NOTIFIED <u>RODNEY BEALS</u>			

NOTE - ON 10-20  
 B. MUNO ALIGNED  
 DISTRIBUTION AS A  
 DRAFT W/O HIS  
 REVIEW

## PART IV. APPROVAL

1. PREPARER	<u>SA</u>	<u>3/13/89</u>	(✓)	( )
2. CHIEF, RCRA ENF. UNIT	<u>2P</u>	<u>3-14-89</u>	(✓)	( )
3. CHIEF, RCRA ENF. SECTION	<u>WEM</u>	<u>3-16-89</u>	(✓)	( )
4. CHIEF, H.W. ENF. BRANCH	<u>WEM</u>	<u>3-16-89</u>	(✓)	( )
5. ASSISTANT REGIONAL COUNSEL	<u>Susan Prout</u>	<u>3-20-89</u>	(✓)	( )
6. CHIEF, S.W. & E.R. SECTION	<u>SWP</u>	<u>3/20/89</u>	(✓)	( )
7. CHIEF, SOLID WASTE & EMER. RESPONSE BRANCH	<u>MS</u>	<u>3/22/89</u>	(✓)	( )
8. REGIONAL COUNSEL	<u>MS</u>	<u>3/22/89</u>	(✓)	( )
9. DIRECTOR, WASTE MGT. DIV.	<u>MS</u>	<u>3/22/89</u>	(✓)	( )
10. REGIONAL ADMINISTRATOR			( )	( )

NOTE: Attach sign-off sheet to yellow copy of the enforcement action.

NOV 01 1988

Steven Tasher, Esquire  
Donovan, Leisure, Newton & Irvine  
1850 K Street, N.W.  
Washington, D.C. 20006

Re: Ekco Housewares

Dear Mr. Tasher:

Enclosed please find two copies of the Corrective Action Order. We have incorporated your suggestion that a technical representative of the U.S. EPA review disputes over additional work and additional interim measures if the alternative dispute resolution procedures of the Order are invoked.

Please have your client sign both copies of the Order in the next three weeks and return them to me so that we may initiate the sign-off procedures in our office.

Very truly yours,

Susan W. Prout  
Assistant Regional Counsel

cc: Timothy McGuinness

## MEETING ROSTER

[illegible]



SETTLEMENT CONFERENCE

NAME EXCO HOUSEWORKS MASSILLON, OHIO

DATE 10-29-87

SUBJECT EXCO 3008(h) & INT. MEASURES

SUMMARY OF CONFERENCE ① SUBMITTED INT. MEASURES REQUESTS  
TO EXCO - DISCUSSED - They will be addressed in Western  
Int Measures Plan ② Discussed need for a  
formalized 3008(h) Order

10 APR 1987

Steven Oster, Esq.  
Donovan, Leisure, Newton  
& Leaver  
4P50 F. Street, N.W.  
Washington, D.C. 20006

Dear Steve:

Enclosed please find two copies of the Partial Consent Agreement & Final Order (PCAO) issued to partially resolve the RCRA §3008(a) action brought by the United States Environmental Protection Agency (U.S. EPA) against Ekco Housewares, Inc. This PCAO reflects the terms agreed in principal at the settlement conference of January 7, 1987 between Ekco and U.S. EPA. Upon your review, please have the appropriate parties sign and date both copies of the PCAO and return them both to me. The U.S. EPA will then sign and date both copies of the PCAO making the PCAO final and return one of the copies to you.

As you are aware, this matter is now before an administrative law judge, therefore, an expedited resolution of this matter would be helpful. As we discussed, full resolution of this matter can be had upon the successful negotiation of a corrective action order. Therefore immediately after the execution of the enclosed PCAO, a separate Consent Order (apart from the administrative proceeding) would then be negotiated requiring Ekco to undertake corrective action. EPA expects that negotiations, on the corrective action order should take no more than 60 days from the time Ekco receives the proposed order from EPA. EPA is concerned that corrective action at the site be initiated and completed and, therefore, will probably consider the 60 day timetable a cap on negotiations for a corrective action order.

Upon satisfactory negotiation of a corrective action order, U.S. EPA and Ekco would negotiate to resolve the penalty issue in the pending administrative order. It should be noted that while the Agency applauds measures taken by Ekco to remediate contamination at the site, it is clear that the RCRA penalty policy mandates the assessment of a penalty in this case for past violations at the site. Therefore, in an effort to clearly

inform Ekco of the Agency's position regarding any negotiation of a reduction in the penalty, it is Agency's position that any reduction in penalty could only occur within the boundaries contemplated by the goals and mandates of the RCRA penalty policy.

I have also enclosed a copy of the RCRA penalty policy that you had requested prior to the meeting of January 7. If you have any additional questions, I can be reached at (312) 353-6124.

Sincerely,

Victor A. Franklin  
Assistant Regional Counsel

Enclosures

cc: Joan Mantel  
Steve Tasher  
T. Shingleton

bcc: W. Nied



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
230 SOUTH DEARBORN ST.  
CHICAGO, ILLINOIS 60604

REPLY TO THE ATTENTION OF:

MEMORANDUM

SUBJECT: Ekco Dispute Resolution

FROM: Susan Prout *Susan Prout*  
Assistant Regional Counsel

TO: Bill Munro and Mike Elam

DHD 045 205 424  
or  
077 768 422  
~~42~~

Attached please find a copy of the proposed Alternative Dispute Resolution language for the Ekco Housewares Corrective Action Order. It is modeled after the unilateral CAO procedures outlined in the April 13, 1988, Federal Register. We asked Paul Schuman in OWPE if OWPE would be willing to review disputes regarding additional work and interim measures. After discussing the matter with Elaine Stanley, who had previously discussed it with Lloyd Guerri, he indicated that OWPE was not interested in playing an active role in the ADR process. In response to Headquarter's lack of interest in assisting with this process we have proposed the attached language.

Please review the proposed language and submit your comments to me by May 25, 1988. If I do not receive any comments from you, we will send the Order to Ekco with the language as proposed.

cc: Walter Nied

C. Alternative Dispute Resolution Procedures for Additional Work and Interim Measures.

If Respondent objects to a U.S. EPA requirement to undertake additional work or additional interim measures pursuant to Section VI of the Order, it shall invoke the dispute resolution procedures outlined in paragraphs A and B above. If Respondent disagrees with the resolution of the dispute over additional work or additional interim measures pursuant to the procedures outlined in paragraphs A and B above, the Respondent shall so notify the U.S. EPA by certified mail within 5 business days of resolution of the dispute. Within 5 business days of Respondent's notification to U.S. EPA, U.S. EPA shall submit all documents submitted by Respondent in connection with resolution of the dispute and all other relevant documentation to an attorney within the Office of Regional Counsel who has had no prior connection with this matter (the "Reviewing Attorney"). The Reviewing Attorney shall promptly review said documentation and advise whether it concurs in the resolution of the dispute. The review by the Reviewing Attorney shall be nonbinding and shall not be admissible in any judicial or administrative proceeding. Upon completion of the Reviewing Attorney's review, he/she shall communicate his/her decision to the Project Coordinator, and the Region shall notify Respondent in writing whether its resolution of the dispute will be modified. Unless

modified, the dispute shall be resolved in the manner provided in Paragraphs A and B of this Section. Any modification will be deemed incorporated into this Consent Order. The terms of this Paragraph C shall apply only to disputes regarding additional work or additional interim measures.